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SEC Acting Chair Remarks on Private Capital-Raising and Retail Access to Private Companies

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In recent remarks at the Florida Bar's 41st Annual Federal Securities Institute and M&A Conference on February 24, 2025, SEC Acting Chair Mark Uyeda outlined his agenda for what he called a "return to normalcy" at the SEC. If enacted, his proposals would bring significant changes to the private offering regime and could substantially expand the pool of investors eligible to participate in private offerings and private funds. In particular, Acting Chair Uyeda indicated that he had directed the SEC staff to consider changes related to:

- Expanding retail investors' access to private companies, potentially by modifying the "accredited investor" standard under Regulation D;
- Revising rules under the Investment Company Act of 1940 to facilitate broader retail participation in private funds; and
- Simplifying and scaling public company disclosure requirements.

Uyeda argued that the current income and net worth thresholds for a natural person to qualify as an accredited investor are not sufficient. He outlined various proposals the SEC has previously received to potentially revise the accreditation standard, ranging from simple mathematical adjustments to the existing dollar income and net worth thresholds to account for inflation to the introduction of additional non-financial qualification methods, such as allowing would-be accredited investors to qualify via completion of an educational program or passing a standardized test.[1]

Uyeda also reiterated his personal support for the introduction of a "sliding scale" element to the accredited investor definition, similar to that which is currently used under Regulation A Tier 2 and Regulation CF. As applied to Regulation D's investor accreditation requirement, such a "sliding scale" standard could be structured to permit a given person to invest up to a certain percentage in private companies (based on a personal financial metric, such as the total dollar value of that person's investments in securities) during a rolling time period.[2] For example, an individual who holds less than $100,000 of securities could be permitted to invest up to 5% of such investments in private companies in a given twelve-month period, while an individual who holds between $100,000 and $500,000 in securities could invest up to 10% in private companies during the same period, which percentage would continue to scale until it reaches 100% past a specific threshold of securities holdings. Such a sliding scale or other potential modifications to the accredited investor standard could, Uyeda asserted, enable greater retail investor participation in private markets than the present "all or nothing" approach under the existing definition of accredited investor.

Acting Chair Uyeda also outlined changes designed to enhance liquidity for investors in private companies. In particular, he noted that he had directed the SEC staff to examine whether the definition of "Emerging Growth Company" ("EGC") could be expanded in order to provide EGCs an "off-ramp" from certain disclosure obligations. Any reduction in the compliance burden faced by public companies could, in the Acting Chair's words, "Mak[e] IPOs Attractive Again" and make it easier for private funds to ultimately exit their investments in private companies (and to do so at a favorable price).

Key Takeaways

- **Significant Policy Shift**. Acting Chair Uyeda's remarks indicate a major shift in the SEC's attitudes towards participation by retail investors in private placement offerings relative to previous administrations', and explicitly affirm that the SEC intends to "empower retail investment in private companies" by expanding eligibility to participate in unregistered offerings.
- **Potential New Fund Structures**. To the extent private issuers are more likely to accept investments from retail investors through pooled investment vehicles as opposed to on a direct investment basis, this shift may in turn result in the relaxation or modification of the SEC staff's informal policy that registered closed-end funds may not invest more than 15% of their assets in private funds unless they are only sold to accredited investors with a minimum investment of at least

$25,000.

- **Expanding the Private Fund Investor Base**. If the SEC moves forward with the agenda outlined by Acting Chair Uyeda, it would mark a major expansion of the potential investor base available to asset managers to private funds (including through registered vehicles).

[1] When the SEC last expanded the definition of accredited investor in 2020, it considered whether to develop an "accredited investor examination," and most commenters who addressed the issue supported it. In 2023, a bill that would have directed the SEC to develop such a test passed the House of Representatives with substantial bipartisan support. *See* H.R. 2797 - 118th Congress (2023-2024), available at https://www.congress.gov/bill/118th-congress/house-bill/2797.

[2] Uyeda previously discussed this "sliding scale" approach in greater detail in a speech before the 51st Annual Securities Regulation Institute on January 22, 2024. *See* Uyeda, Mark, "Remarks at the 51st Annual Securities Regulation Institute" (Jan. 22, 2024), available at https://www.sec.gov/newsroom/speeches-statements/uyeda-remarks-securities-regulation-institute-012224.

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