

[Floor Situation](#) | [Summary](#) | [Background](#) | [Cost](#) | [Staff Contact](#)

## [H.R. 2187, Fair Investment Opportunities for Professional Experts Act](#)

### FLOOR SITUATION

On Monday, February 1, 2016, the House will consider [H.R. 2187](#), the Fair Investment Opportunities for Professional Experts Act, under suspension of the rules. The bill was introduced on April 30, 2015, by Rep. David Schweikert (R-AZ) and was referred to the Committee on Financial Services, which ordered the bill reported, as amended, by a vote of 54 to 2, on December 9, 2015.

### SUMMARY

H.R. 2187 amends the definition of accredited investor under the Securities Act of 1933. Under this legislation, an accredited investor will include any individual:

- whose individual net worth, including their spouse's, exceeds \$1 million;
- with an income greater than \$200,000 individually, or \$300,000 jointly;
- with a current securities-related license; or
- who the Securities and Exchange Commission (SEC) determines has demonstrated education or job experience to qualify as having professional subject-matter knowledge to a particular investment. Such education or experience must be verified by the Financial Industry Regulatory Authority.

### BACKGROUND

The SEC is an independent regulatory agency responsible for administering Federal securities law. It has broad regulatory authority over the securities industry, including stock exchanges, mutual funds, investment advisers, and brokerage firms.<sup>1</sup>

The SEC's Advisory Committee on Small and Emerging Companies noted that the majority of new jobs in the United States are generated by companies less than five years old.<sup>2</sup> The ability of these companies to raise capital is critical to the economic well-being of the United States. Under current law, companies are required to register with the SEC prior to raising funds through public and private

<sup>1</sup> See CRS Report, "[Introduction to Financial Services: The Securities and Exchange Commission \(SEC\)](#)" December 22, 2014.

<sup>2</sup> See [SEC Advisory Committee on Small and Emerging Companies Recommendations Regarding the Accredited Investor Definition December 17, 2014 Meeting](#), at 96.

offerings.<sup>3</sup> The Securities Act provides for certain exemptions. Regulation D, which provides such exemptions, states that the obligation to register with the government does not apply to any transaction not involving a public offering. The Supreme Court has previously ruled that an offering would be considered private and not public when “the particular class of persons affected needs the protection” of securities laws and should be utilized only by persons who can “fend for themselves.”<sup>4</sup> To further define individuals who can “fend for themselves”, the SEC adopted the term “accredited investor”.

Under the SEC’s standards, an investor’s financial status is a proxy for his ability to fend for himself. Thus, a natural person is accredited if that person (1) earned income that exceeded \$200,000 (or \$300,000 together with a spouse) in each of the prior two years, and reasonably expects the same for the current year, or (2) has a net worth over \$1 million, either alone or together with a spouse (excluding the value of the person’s primary residence).<sup>5</sup>

This past fall, the Investor Advisor Committee recommended changes to the definition of accredited investor to allow investors to participate in private offerings even though they do not satisfy the net worth test.<sup>6</sup> The Committee suggested that individuals could be accredited investors if they had adequate financial sophistication, education or professional credentials, or expertise as demonstrated by the successful completion of an exam demonstrating their investment knowledge.<sup>7</sup> H.R. 2187 expands the definition of an accredited investor to include persons who meet certain financial education standards.

According to the Committee, “expanding the pool of eligible investors that can participate in private placements will increase capital formation and amending the definition of accredited investor to account for educational or professional expertise will help to increase that eligibility pool. Individual investors that have the risk appetite and ability to understand the private offering should be able to invest – the government should not limit the options of individual investors to only those the government deems worthy.”

## **COST**

The Congressional Budget Office (CBO) [estimates](#) implementing H.R. 2187 would cost less than \$500,000 over the 2016 to 2020 period for rulemaking activities related to the change in definition. Enacting H.R. 2187 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

## **STAFF CONTACT**

For questions or further information please contact [Robert Goad](#) with the House Republican Policy Committee by email or at 6-1831.

---

<sup>3</sup> See [17 C.F.R. 230.408](#)

<sup>4</sup> See Supreme Court Case: Securities and Exchange Commission v. Ralston-Purina Co., 346 U.S. 119, 73 S. Ct. 981, 97 L. Ed. 1494 (1953)

<sup>5</sup> [17 C.F.R. 230.501\(a\)](#).

<sup>6</sup> Recommendation of the Investor Advisory Committee, [Accredited Investor Definition](#), Oct. 9, 2014

<sup>7</sup> *Id.*