

115TH CONGRESS
2D SESSION

S. 2756

To amend the Securities Act of 1933 to direct the Securities and Exchange Commission to revise the regulations of the Commission regarding the qualifications of natural persons as accredited investors.

IN THE SENATE OF THE UNITED STATES

APRIL 25, 2018

Mr. TILLIS (for himself and Ms. CORTEZ MASTO) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To amend the Securities Act of 1933 to direct the Securities and Exchange Commission to revise the regulations of the Commission regarding the qualifications of natural persons as accredited investors.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fair Investment Op-
5 portunities for Professional Experts Act”.

1 **SEC. 2. DEFINITION OF ACCREDITED INVESTOR.**

2 (a) IN GENERAL.—Section 2(a) of the Securities Act
3 of 1933 (15 U.S.C. 77b(a)) is amended by striking para-
4 graph (15) and inserting the following:

5 “(15)(A) The term ‘accredited investor’ shall
6 mean—

7 “(i) a bank, as defined in section 3(a)(2),
8 whether acting in its individual or fiduciary ca-
9 pacity; an insurance company, as defined in
10 paragraph (13) of this subsection; an invest-
11 ment company registered under the Investment
12 Company Act of 1940 (15 U.S.C. 80a–1 et
13 seq.) or a business development company, as
14 defined in section 2(a)(48) of that Act (15
15 U.S.C. 80a–2(a)(48)); a small business invest-
16 ment company licensed by the Small Business
17 Administration; or an employee benefit plan, in-
18 cluding an individual retirement account, which
19 is subject to the provisions of the Employee Re-
20 tirement Income Security Act of 1974 (29
21 U.S.C. 1001 et seq.), if the investment decision
22 is made by a plan fiduciary, as defined in sec-
23 tion 3(21) of such Act (29 U.S.C. 1002(21)),
24 which is either a bank, an insurance company,
25 or a registered investment adviser;

1 “(ii) any natural person whose individual
2 net worth, or joint net worth with that person’s
3 spouse, exceeds \$1,000,000 (which amount
4 shall be adjusted for inflation by the Commis-
5 sion every 3 years to reflect the change in the
6 Consumer Price Index for All Urban Con-
7 sumers published by the Bureau of Labor Sta-
8 tistics, rounding to the nearest \$10,000) where,
9 for purposes of calculating net worth under this
10 clause—

11 “(I) the person’s primary residence
12 shall not be included as an asset;

13 “(II) indebtedness that is secured by
14 the person’s primary residence, up to the
15 estimated fair market value of the primary
16 residence at the time of the sale of securi-
17 ties, shall not be included as a liability (ex-
18 cept that if the amount of such indebted-
19 ness outstanding at the time of sale of se-
20 curities exceeds the amount outstanding 60
21 days before such time, other than as a re-
22 sult of the acquisition of the primary resi-
23 dence, the amount of such excess shall be
24 included as a liability); and

1 “(III) indebtedness that is secured by
2 the person’s primary residence in excess of
3 the estimated fair market value of the pri-
4 mary residence at the time of the sale of
5 securities shall be included as a liability;

6 “(iii) any natural person who had an indi-
7 vidual income in excess of \$200,000 in each of
8 the 2 most recent years or joint income with
9 that person’s spouse in excess of \$300,000 in
10 each of those years and has a reasonable expect-
11 tation of reaching the same income level in the
12 current year (which amounts shall be adjusted
13 for inflation by the Commission every 3 years
14 to reflect the change in the Consumer Price
15 Index for All Urban Consumers published by
16 the Bureau of Labor Statistics, rounding to the
17 nearest \$10,000);

18 “(iv) any natural person who holds securi-
19 ties purchased from an issuer if such issuer has
20 a reasonable belief that the natural person ex-
21 ceeded the threshold described in clause (ii) or
22 (iii) at the time of the original purchase and
23 would continue to exceed that threshold, with-
24 out regard to any subsequent adjustment for in-
25 flation;

1 “(v) any natural person who is currently li-
2 censed or registered as a broker, dealer, reg-
3 istered representative, investment adviser, or in-
4 vestment adviser representative by the Commis-
5 sion, the Financial Industry Regulatory Author-
6 ity, or an equivalent self-regulatory organiza-
7 tion, as defined in section 3(a) of the Securities
8 Exchange Act of 1934 (15 U.S.C. 78c(a)), or
9 the securities division of a State or the equiva-
10 lent State division responsible for licensing or
11 registration of individuals in connection with se-
12 curities activities;

13 “(vi) any natural person that the Commis-
14 sion determines, by regulation and in accord-
15 ance with subparagraph (B), to have demon-
16 strable education, job, or professional experi-
17 ence to qualify such person as an accredited in-
18 vestor; or

19 “(vii) any natural person who, on the basis
20 of such factors as financial sophistication, net
21 worth, knowledge, and experience in financial
22 matters, or amount of assets under manage-
23 ment qualifies as an accredited investor under
24 rules and regulations which the Commission
25 shall prescribe.

1 “(B) When issuing a regulation under subpara-
2 graph (A)(vi), the Commission shall—

3 “(i) consider such factors as whether a
4 natural person has—

5 “(I) a qualifying education, job, or
6 professional experience, as verified by the
7 Financial Industry Regulatory Authority
8 or an equivalent self-regulatory organiza-
9 tion, as defined in section 3(a) of the Secu-
10 rities Exchange Act of 1934 (15 U.S.C.
11 78c(a)), or a certification or accreditation
12 as verified by an independent third party;
13 and

14 “(II) a reasonable level of relevant fi-
15 nancial expertise in order to understand—

16 “(aa) features of commonly
17 issued private securities, including any
18 voting and economic rights and disclo-
19 sure obligations of the issuer;

20 “(bb) the basic components of a
21 financial statement;

22 “(cc) the material investment
23 risk associated with the investment;
24 and

1 “(dd) any other factor that the
2 Commission determines will serve the
3 public interest and protect investors;
4 and

5 “(ii) determine the period of time during
6 which an accredited investor shall retain such
7 status.”.

8 (b) REGULATIONS.—The Securities and Exchange
9 Commission shall revise the definition of accredited inves-
10 tor under section 230.501 of title 17, Code of Federal
11 Regulations, to conform with the amendment made by
12 subsection (a).

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