To the SEC Concept Release comment review team:

We'd like to sincerely thank the SEC for the opportunity to comment on the concept release and for making available to the public such key information about private markets. We apologize for the delay in submitting beyond the appointed deadline.

This is our first communication with the SEC. We seek to develop a long-term relationship built on mutual understanding, clear communication, and prioritization of mission-driven outcomes.

This reply was drafted together by Seth Wright and Dagan Bora, respectively the Chief Technology Officer and Chief Executive Officer of Leyline Corporation (www.leyline.io). We hold the somewhat unique position of being a startup that is developing software to empower people's path to smart private investing. Our objective is to double the number of private market participants over the next 5-7 years. We are staunch supporters and advocates of the SEC's mission, and plan to develop a path to sophistication for new private market entrants that prioritizes education, compliance, and access to high quality tools for individual investors.

We hope you will find our insights helpful as you consider the best path forward, while safeguarding investor protections, facilitating capital formation, and ensuring the fair and efficient function of markets.

Sincerely,
Dagan Bora

6. How should we evaluate whether our existing exemptions appropriately promote efficiency, competition, and capital formation? For example, in evaluating our exempt offering market, should we consider whether investors have more opportunities to participate in exempt offerings?

Investors and offerers need a "litmus" test to see if they are able to participate with each other. In such a highly regulated field it is unlikely that these participants will be able to ably judge the factors around this. A categorization system that standardizes the type of offering and the type of investor that includes clear standardization on the definition of sophistication and matches it with the offering would provide greater protections for both the investor and the offerer (protection from regulatory action). There is a risk of over-regulation creating more barriers of entry to new investors, so this process needs to be carefully designed.

To appropriately evaluate the market, should we consider the cost of capital for a variety of issuers?

Standardizing the process would reduce the cost of capital in general.

What other indicators should we consider?

How should we evaluate whether our exemptions provide adequate investor protection? For example, is there quantitative data available that shows an increased incidence of fraud in particular types of exempt offerings or in the exempt market as a whole? If so, what are the causes or explanations and what should we do to address it?

There can be a fine line between fraud and failure. A more relevant statistic would be failure rates, and this data could be easier to mine from purely public data. There are already data providers scraping the internet and government filings. This data could be incorporated into the review process.

What other factors should we consider in assessing investor protection?

A framework for investors and offerers that establishes suitability for participation would greatly simplify investor protections.

7. How has technology affected an issuer's ability to communicate with its potential and current investors?

An industry of financial communication SaaS businesses is starting to pop up. Online "Deal Rooms" are being used for secure communication. Right now each company is building its own standards of communication and trying to work within sets of regulations that could categorize a business meant to provide toolsets, as an advisor, or even as a market. True standards for data exchange and searching/disclosures. The current regulations force market participants to run as de facto market places.

Do our exempt offering rules limit an issuer's ability to provide disclosure promptly to its potential and current investors?

Are there technologies or means of communication (e.g., online chat or message boards) that would effectively provide updated disclosure to potential and current investors that are currently not being used due to provisions in our rules or regulations?

The real key to this question is defining "effectively". Concise standards would be ideal. The technology itself would be very simple, a diverse set of technologies is already being used to connect investors and offerers, ranging from email, deal rooms, messaging systems. The quality, consistency, and timeliness of disclosures also vary drastically within each technique and product.

If so, what rules are limiting this disclosure and what changes should we consider?

Given the transformation of information dissemination that has occurred since our rules were adopted and particularly over the last two decades, should we consider any rule

changes to enhance an issuer's ability to communicate with investors throughout the exempt offering framework?

A simplified process could expand the number of offerings that are participated in. Simplified, clearer standards for smaller companies in the friends and family stage could greatly increase the number of companies reaching later stage capitalization. As a SaaS Financial company, we are relying on advisors with deep market experience to provide guidelines towards a specification, and lawyers to make sure we don't fall askew of regulatory issues. Having a clear set of guidelines of all the rules and offerings that are required would allow for a higher quality of disclosures and protections. What communications are allowed, what is not allowed, who can access the data legally. What are all the various offering options and what language is appropriate to describe them?

How would such changes affect capital formation in the exempt market and what investor protections would be necessary or beneficial in such a framework?

Would legislative changes be necessary or beneficial to make such changes?

I believe standardization does not require regulation.

10. Which conditions or requirements are most or least effective at protecting investors in exempt offerings?

A poorly protected class of private equity ownership is granted or optioned equity where time and IP are the investment.

The Accredited Investor income and net worth requirements are particularly ineffective because the first source of capital for a Startup is traditionally Friends and Family. Fewer than 5% of Accredited Investors invest yearly. Individually Accredited Investors that are not hedge funds, private equity shops, venture capital, family offices, or other organized entities are a small subset of the ~4% that invest yearly. SEC staff put the figure at ~130,000 and there are probably another 150,000 that aren't being accounted for. It's a very small number. Hence, the words "Accredited Investor" are at best unfamiliar and in our experience regularly confuse and irritate people who are not financial professionals. So even if one does meet the requirements, they would not self-identify upon being prompted except in rare cases.

Unfortunately, there are no other options for a Pre-Seed company except for the occasional angel or early stage venture capitalist, who are inundated with Seed stage proposals due to the less than favorable skew of startups to sources of capital. Ergo, if an entrepreneur's Friends and Family are not Accredited, then the Accredited Investor requirements create liability, risk, an ethical dilemma, and a conflict of interest problem for the Startup's Founders. Banks have no interest in concept stage ideas. This problem is especially grave for younger founders (22-40) who's peer network has not had sufficient time in the workplace to attain Accredited Investor requirements and for those families impacted enormously by the Great Recession.

We know this because we've gone to our networks to raise capital and found that fewer than 5% are accredited. Which means it is especially hard to raise capital, because if one's network is 1000 people, only 50 will be eligible to participate. Of those 1.5 will have invested privately before. In lieu of other sources of capital formation or less stringent requirements on Accredited Investors, Startups led by entrepreneurs who graduated between the years of 2007-2016 are heavily disadvantaged and marginalized by the capital formation ecosystem.

The SEC should be aware that the lack of capital formation options at early stages was exacerbated by an excess of cheap programming talent which made pre-concept investing unattractive to sophisticated investors and venture capital post-2012.

This post by Naval Ravikant, CEO AngelList, from 2014 gives a broad overview of what kind of circumstance a startup enters into, though I think he errs in setting the assumption of 50k for what it takes to produce an initial product. Silicon Valley's mentality of "Ship it, then fix it" is only one paradigm which carries a presupposition that engineers will work for sweat equity at great opportunity cost. Senior developers who make in excess of 200k a year will not. See next answer... https://fi.co/insight/notes-on-the-current-state-of-startup-funding-from-naval-ravikant-of-angellist

Are there changes to these investor protections or additional measures we should implement to provide more effective investor protection in exempt offerings?

Yes. To support our reasoning we discuss from a Founder and employee perspective and provide anecdotal information about what we see in the market, especially pertaining to real barriers to entry for investors who are not HNWI. We also take a look at startup sector by stage to show where there is a dearth of capital formation.

There is rampant abuse and disregard of this type of offering, so much so that it is often not considered an investment.

Companies offering shares or percentage for the investment of time or Intellectual property can use this as a predatory method to take advantage of workers. The marketplace for talent is competitive, and most 9-5 workers in the USA will not forego salary for sweat equity in order to maximize earning potential of their most productive years, avoid the risk of bad outcomes, and retire early.

Protections afforded to investors are paper thin. Our most recent investor declared that he fully expected to lose all of his investment. He provided justification, but he was very clear on that point. In fact, unless an investor reaches this point, they are considered to have a poor understanding of the risks.

Sebastian Quintero is a data scientist who has analyzed 35,568 financing events through 20 years of data and found that failure rates to raise a next round from Seed to Series A are

~79.6%. From Series A to Series B the failure rate drops to 50%. This could indicate a demand for capital that is not being met in the marketplace. How will the SEC protect investors if they are not engaged? I believe focusing on protections is putting the cart before the horse given the common understanding that one must be ready to lose one's entire investment no matter how de-risked or well disclosed/diligenced the opportunity. We are not including companies exceeding 50 million in revenue. (https://medium.com/journal-of-empirical-entrepreneurship/dissecting-startup-failure-by-stage-34bb70354a36)

By the numbers fewer than 5% of the 16 million Accredited Investors invest per year. They say that the most common fear is fear of the unknown. So even among Accredited Investors it is extremely unlikely that a startup will be able to manage expectations, or provide protections, because the investors are unsophisticated. Further, after speaking with many RIAs we have found few to none that specialize in private markets. Financial consultants are ill-prepared to advise on private offerings. The most effective method would be a technology suite that streamlines disclosures and provides a path to sophistication that supports a user's learning requirements while supporting the evaluation and vetting of startups being considered for investment. Crowdfunding technologies are only useful for companies within specific consumer-facing sectors and at smaller deal volumes.

Among our investors even an angel with net worth exceeding 10million did not show any desire to engage legal or financial consultants in the evaluation of our offering. This angel was a first time private investor. Their primary concern was to talk to someone who had done it before. The population of people who meet that criteria is miniscule so on the whole a catch-22 exists which creates a barrier to entry for 1st time investors. Really they have no support services infrastructure to aid their decision making process beyond organizations like the Angel Capital Association (which charges a membership), AngelList, and regional Angel groups. We have studied many angels and found that Pre-Seed and Seed stage investments are almost always conditional on the existence of a strong rapport and bond of trust between Founders and Investors. In the current milieu that belief and trust substitutes for good process. Further disclosure would not materially impact outcomes at Pre-Seed and Seed. However, because most investors cannot write checks larger than $100,000 more mature direct-investment opportunities are effectively off-limits. Post Series A most investors with less than 5 million in net worth will effectively be locked out of the offering unless participating through an intermediary or fund, which would carry the weight of the responsibility for vetting the asset.

Alternative asset classes like real estate require considerable knowledge and capital commitment, but banking institutions and tax law promote and incentivize unaccredited investors toward the purchase of properties. Similarly, cryptocurrency has recently attracted a large amount of retail-investor interest away from public markets. The volatility in cryptocurrency markets is large compared to illiquid RSUs. We see in the market that the real estate and cryptocurrency asset classes represent desirable diversification opportunities for unaccredited investors. In particular firms like yieldstreet are delivering innovative, collateral backed investment options and have demonstrated strong performance and ability to acquire mindshare with Accredited Investors. Cadre is another such firm. These companies often use language describing the “Private Market” opportunity in their marketing to attract visitors. Private market opportunities are usually considered as an “or” vs real estate given the limited liquidity of investors who are just barely meeting requirements.

Are there investor protection conditions that we should eliminate or modify because they are ineffective or unnecessary?

The Accredited Investor definition should be modified such that investors who do not meet the net worth or income requirements can invest a % of their net worth on a sliding scale.

Retail-investors who are not diversified carry enormous exposure in their portfolios, and if wealth-transfer life events are unfortunately timed, a single Recession can shift the trajectory of an entire family. Their lack of diversification represents a HUGE systemic risk to the US economy, because through inheritance an unaccredited and unsophisticated investor may become accredited overnight, and few people invest in developing the skill sets required to manage a large portfolio of assets. For instance, my own mother’s parents passed away a couple years before 2008. She lost most of her inheritance due to the market swing that occurred as a result of fraudulently-rated subprime mortgages and the ensuing collapse of Lehman, Bear Stearns, and the 61 other investment banks that made the mistake of overleveraging. **This calls into question the base rationale for Accredited Investor requirements, as incidences such as the above are likely to cause a loss of faith in the markets and perception of unfairness amongst all affected.**

Further, that woman, so deprived of assets and service, is not even allowed to invest in the family that she gave birth to, spent 16 years raising, and sacrificed a career of earning potential for. After studying the behavior, methodologies, dealflow generation tactics, diligence techniques, terms sheet construction and investment thesis/criteria development of investment bankers, private equity, venture capital, family offices, and angel investors, I am challenged to understand why people who have suffered losses due to fraud and bad actors are being restricted to that same market where the losses were incurred. A space where they do not possess any advantage over institutions. Does not bode well for retail-investors as a class, especially given that IPOs and stock buybacks are being used to enrich companies and previous investors at the expense of later entrants.

Practically, early stage startups will not waste time pursuing an investor who cannot write a check for at least $25,000; effectively limiting non-accredited investors seeking to diversify privately to Reg CF offerings (which do not always guarantee an equity component). A lack of syndication opportunities (Angel groups like the members of Keiretsu Forum use Sole-purpose LLCs) is a prevailing barrier to entry because individual investors (and companies) struggle to acquire access to the expensive legal aid that facilitates and informs capital formation activities. It may be quite easy for five or six non-accredited investors to form a group to invest 50-60k startup capital, but the current requirements do not permit such formation, unless those members are making at least 100k a year or more. And so the group of potential investors a company may pitch to is reduced further, and investors that do participate shoulder greater risk as a measure of absolute dollar value of the position.

I doubt that all syndicators are accredited. The bar is set quite high and engagement is exceptionally low (<5% yearly)

So long as an unaccredited investor makes enough to support themselves and their family, depending on geographic norms, the SEC should use net worth as the benchmark of an investor's ability to bear the risk of the investment. A school that makes 12 million in profit as a result of a Board member's connection to Snapchat and a small early investment demonstrates that outsized outcomes have to be considered alongside risks. After all, with over 43% of monies in public markets being managed passively or by machines, there is in fact an asymmetric information, analytics, and data disadvantage that applies to nearly all retail-investors who attempt to beat the public market.

Further, even the best returns cannot compare to the return multiplier potential that exists in private markets, and those heavily impacted by the Great Recession should be given a chance to recover their portfolio value so as to off-set substandard cash flow disbursements through retirement. Pension funds are already using nonaccredited dollars in private placements. Venture capitalists screen out companies that do not have the potential to return at least 10x-30x over 5-7 years. The performance of these privately held companies is one of the major factors driving behavior of large allocators of capital who increasingly look to private markets, and have historically used them to realize stronger returns. Regular investors should have access to technology similar to that of venture capitalists and angels.

Private companies represent a fantastic opportunity for diversifying 5-10% of one's overall portfolio into privately-held businesses. We have read books written by angel investors and most advocate for that threshold.

Would legislative changes be necessary or beneficial to address any changes to investor protection conditions?

Requiring additional disclosures, or a structure for evaluating who is a founder and who is getting paid in stock should absolutely be evaluated in a legal structure that considers that workers receiving ownership options are also investors.

11. In light of the increased amount of capital raised through the exempt offering framework, should we consider rule changes that will help make exempt offerings more accessible to a broader group of retail investors than those who currently qualify as accredited investors?

Definitely. It is unfair and irresponsible to limit such healthy returns to such a small fraction of the population.

Accreditation based solely on financial values seems like a poor litmus test to protect investors. An investor's financial status should be a factor in determining participation eligibility, but an investor's knowledge or the poorly defined “Sophistication” of the risks and structures of investment provide far greater protection.

If so, what types of changes should we consider? For example, should we expand the definition of accredited investor to take into account characteristics other than an individual’s wealth?

This cycles back to categorizing investors and offerings with a much clearer set of standards that determine eligibility.

Most entrepreneurs are allocators of capital. Other professional fields that allocate and manage capital should be considered as a relevant characteristic.

The series 82 devoid of questions pertaining to fiduciary responsibility may be used as a basis for understanding what is required to invest privately.

Should we allow investors, after receiving disclosure about the risks, to opt into accredited status?

Why redefine a word that is already in use. This is a workaround to allow people that do not meet the financial definition of accredited to participate in an offering. Replace accreditation with categorization and standardization.

Should we amend the existing exemptions or adopt new exemptions to accommodate some form of non-accredited investor participation such that these exemptions may be more attractive to, or more widely used by, issuers?

The goal is cohesive and clear standards on who can invest in what offerings. From the product management perspective on an existing product, this process is clear: gather requirements, build the specification, then determine the fastest route to reach that goal - modification to the existing product, or building a new product. Developers always want to build new products, if you have the time and resources to do so, without hurting existing product users, then you should build the new product, it is almost always invariably better as you have the customer experience to deliver what is actually needed, vs what you thought would be needed. The product in question here is the best way to regulate private investments and should be viewed this way.

12. When the current exemptions from registration include offering limits or limits on the amount an individual investor may invest, what should we take into account to determine whether the limits and amounts are appropriate?

Proper standardization and categorization of investors would support a varying degree of limits. For instance, an investor with lower income/net worth but a very high level of knowledge of the field and the classes of offerings they are allowed to participate in would make this far simpler.

In a theoretical scenario, an investor demonstrates relevant background and experience in their field but does not make enough to meet accredited status, there should be a categorization framework that allows them to participate in an offering. This should prevent unknowledgeable investors that currently don't meet the financial definition of accredited from investing, but allow knowledgeable investors in the same financial situation to invest at an amount that would not massively affect their financial well being. The framework should allow a company to receive an investment from an array of investors: knowledgeable with below-accredited wealth score, accredited wealth score, accredited wealth score and sophistication, above accredited wealth score. This would provide protection and allow a greater variety of investment from very high net worth individuals where their risk is low, allowing knowledgeable accredited investors to participate at a higher level then unknowledgeable ones, and non accredited knowledgeable investors to participate. The lowest level of financial participation should be knowledgeable and below accredited wealth score investors, and this would cover employees receiving ownership.

There are several frameworks that categorize industries and companies, these should be updated, reviewed and adopted as a standard. This standard needs to assign a unique identifier to every category and subcategory/specialization. A hypothetical system would be to assign an industry: Agriculture (others -Pharmacology, Entertainment); Service (What role is the company providing) : Technology(others - Transportation, Management); Specialization (Essentially focus of company): Hydroponics (Others - Lighting, Irrigation). An offerer would need to identify what category of business their offering falls under and be able to pass a litmus test on review. Potential investors with a knowledge requirement would need to provide enough material to receive a pass/fail in the offerings business categorization. For an investor to receive approval as knowledge in a business category we could look to professional licensing standards. I would suggest something similar to the standards used to license Architects:
https://www.ncarb.org/become-architect/basics#targetText=Before%20you%20can%20call%20yourself,education%2C%20experience%2C%20and%20examination.
This is NOT a suggestion to require investors to be licensed, but more as a way to identify standards so that diligence is more easily accomplished.

Should we use dollar limits, or some other measure? For example, should individual investment limits be based on a percentage of the investor's income or investment portfolio?

Investment limits should work based on a wealth risk score. This could be as simple as 1 - not enough wealth to be accredited, 2 - accredited, 3 - high net worth individual. Individuals with a score of 1 can only invest in areas they are knowledgeable and only at a rate that does not put them at financial risk, most likely this should be a percentage based on income or net worth. Additional protections may need to be considered to protect knowledgeable investors from making multiple investments per year. 2 - Accredited investors should have access to similar offerings they have now. Knowledgeable accredited investors should have access to participate at a higher rate than accredited investors that do not demonstrate knowledge. 3 - High net worth investors should be able to participate at maximum levels. Fraud needs to be prevented on the offering.

Do these limits impose any particular challenges, for example, by having different effects in different parts of the country due to regional differences?

Increasing unaccredited investor participation in depressed economic areas in a clearer framework could allow more local businesses to receive capitalization necessary to get started. A clearer offering framework would also simplify and reduce the cost of creating an offering so that businesses in depressed economic regions could find investments from the financial centers.