If You Live There It Doesn't Count: SEC Adopts New Accredited Net Worth Standard

In order to conform to the requirements of The Dodd-Frank Wall Street Reform and Consumer Protection Act ("***Dodd-Frank***"), the SEC has amended its rules to exclude the value of a person's primary residence from net worth calculations used to determine whether such individual is an "accredited investor" for purposes of qualifying for certain private offerings under the securities laws. SEC rules permit certain private and limited offerings to be made without registration, and without requiring specified disclosures, if sales are made only to "accredited investors." An individual may qualify as "accredited investors" by having a net worth, alone or together with their spouse, of at least $1 million provided the value of such individuals' primary residence is excluded from the net worth calculation.

Under the amended net worth calculation, indebtedness secured by the person's primary residence, up to the estimated fair market value of the primary residence, is not treated as a liability, unless the borrowing occurs in the 60 days preceding the purchase of securities in the exempt offering and is not in connection with the acquisition of the primary residence. In such cases, the debt secured by the primary residence must be treated as a liability in the net worth calculation. This is intended to prevent manipulation of the net worth standard, by eliminating the ability of individuals to artificially inflate net worth under the new definition by borrowing against home equity shortly before participating in an exempt securities offering. In addition, any indebtedness secured by a person's primary residence in excess of the property's estimated fair market value is treated as a liability under the new definition.