

## There's No Such Thing as Private Market Assets in the Hands of the General Public

By Benjamin Schiffrin | *Director of Securities Policy*

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Our new report, “[There's No Such Thing as Private Market Assets in the Hands of the General Public](#),” explains the fundamental problem with the push to bring private market asset “to the masses.” The push to bring private market assets to the masses overlooks the fact that, once this is accomplished, the assets are no longer private. Here are the key takeaways from the report:

- Our securities laws exist to protect investors in a public offering of securities. They do this by requiring that public securities offerings be registered, which means the issuer must provide investors with all material information about the offering. Issuers can avoid the registration requirement only if they satisfy an exemption from registration.
- The most prominent exemption is for private securities offerings, which are offerings that are not sold to the general public. The required disclosures in public offerings need not be provided to investors in private offerings because these “accredited investors” can supposedly fend for themselves. This exemption is the basis for the private markets.
- Allowing private funds to sell to retail investors would essentially eliminate the fundamental distinction between public and private markets. If supposedly private market assets are sold to the general public, they could no longer be private offerings that are part of the private markets. In other words, absent a prohibition on selling to the general public, there is no basis for exempting offerings from the disclosure requirements of the securities laws and no basis for calling these offerings private.
- This means that what is at stake in the debate about opening up the private markets is not simply whether private funds get to sell their assets to retail investors. What is at stake is the regulatory regime Congress envisioned when it enacted our securities laws. A world in which private market assets are not subject to the disclosure requirements that exist in public offerings yet are sold to the public is not what Congress intended.
- Securities sold to the general public must be considered part of a public offering that must be registered. In other words, sales of securities to the general public are by definition not private securities transactions but part of a public offering. That is why there is no such thing as private market assets in the hands of the general public.



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