

# Investor Choice Advocates Network: Empowering Entrepreneurs & Investors

## EXECUTIVE SUMMARY

Investor Choice Advocates Network (ICAN) is a nonprofit public interest litigation organization **dedicated to breaking down barriers to entry to capital markets and pushing back against the overreach of the Securities and Exchange Commission (SEC)**, serving as a legal advocate and voice for small investors and entrepreneurs whose efforts are too often stymied by an overweening administrative state.

The goal: An America where all people have the opportunity to improve their financial circumstances, and that of their family and community, through access to robust capital markets, helping to fuel vibrant local and national economies driven by innovation and entrepreneurship.

Drawing on deep experience and technical expertise with the SEC and securities enforcement, ICAN will use strategic direct litigation **to defend the rights of small investors and entrepreneurs who have been impacted by the overreach of the SEC**. In the process, ICAN will **begin developing a precedent-based legal bulwark against SEC efforts to further restrict capital markets access**.

**To ensure that the interests and concerns of small investors and entrepreneurs are well represented both in the courts of law and the court of public opinion**, ICAN will continue to produce a steady stream of amicus briefs, regulatory submissions, and creative public-facing content highlighting the serious challenges facing small investors and entrepreneurs in accessing capital markets and the crucial role robust capital markets play in creating a healthy, vibrant economy, where upward mobility is an opportunity available to all.

## THE CHALLENGE & OPPORTUNITY

The freedom of individuals to make informed decisions about personal investments is a cornerstone of the American Dream. Whether it is an entrepreneur seeking funding for a new endeavor or a potential investor seeking to put their funds to work, access to robust capital markets allows innovation to flourish and provides individuals the opportunity to improve their financial circumstances and, by extension, that of their family and community.

**Yet today, in an era of unprecedented economic dynamism, access to capital markets – and the opportunities they afford – is increasingly being limited by overzealous government regulation.** In an attempt to, ostensibly, protect investors

and entrepreneurs, regulators are expanding their interventions in the operation of America's capital markets. As a result of their ill-advised "protection through prohibition" approach, the bar continues to be raised on who can invest, and there are increasing limitations on how entrepreneurs can raise the capital needed to launch or expand new efforts.

When small entrepreneurs and investors run afoul of the SEC, often unwittingly, recourse is limited. Most cannot afford the legal counsel to challenge a ruling. There is little incentive for for-profit legal firms to take on such cases as part of their pro bono portfolio. And those firms that might take the case typically lack the in-house expertise to do so.

At the same time, in this era of robust creativity and growth in capital markets, the SEC resists calls for greater clarity on key issues under the regulatory body's purview. There is, for example, no firm definition of what constitutes a security. Or how one defines a securities broker or an investment adviser. The SEC simply continues to expand the definition of these and other key categories through its punitive powers. The resulting uncertainty creates additional, de facto barriers that further limit engagement by those who cannot afford to risk incurring the ire of the SEC.

**The result: Entrenched financial interests enjoy a growing monopoly on the benefits of capital markets, while smaller, newer investors and entrepreneurs are locked out.** Innovation and the diversification essential for robust markets are stymied. And expanding market barriers restrict the potential financial advancement of average Americans, especially those from underrepresented populations, further exacerbating historic wealth gaps.

## **THE GOAL: EMPOWER ENTREPRENEURS & INVESTORS**

Investor Choice Advocates Network (ICAN) was established in 2022 to break down the barriers to entry to capital markets and push back against the overreach of the SEC. The nonprofit public interest litigation organization serves as a legal advocate and voice for small investors and entrepreneurs whose efforts are too often impeded by government regulation and by their own limited ability to effectively challenge those regulations.

### The Experience & Expertise to Win

ICAN's efforts are deeply informed by co-founder and president Nicolas Morgan's **extensive experience and technical expertise with the SEC and securities enforcement.** Morgan spent seven years working as a litigator with the SEC, before moving into private practice, where he's spent the past 17 years as a securities

enforcement defense trial lawyer. His experience has given him not only an insider's understanding of how the SEC and the regulatory process works, but also an appreciation for **how heavily the deck is stacked against small investors and the entrepreneurs whose efforts help drive the American economy.**

Moving into 2023, Morgan, who donated his time to get ICAN up and running in 2022, is now serving as the organization's full-time president, having stepped down from his position as a chair of litigation in the Los Angeles office of the international law firm Paul Hastings to focus on building ICAN and expanding its efforts.

ICAN's efforts are further informed and supported by a board of directors made up of experienced industry experts, litigators, and former government officials. The board brings to ICAN a broad background in U.S. securities, commodities, and financial laws and regulations, including ICAN co-founder Thomas Zaccaro, a former SEC Regional Trial Counsel and Assistant United States Attorney.

#### Advancing Change on Multiple Fronts

ICAN's programming is based on a multipronged approach designed to maximize the organization's role as a fierce and relentless legal advocate and voice for small investors and entrepreneurs.

In 2023, as the organization begins the year with its first full-time staff, ICAN will:

- Engage in strategic direct litigation to **defend the rights of small investors and entrepreneurs who have been impacted by the overreach of the SEC.** Informed by the experience and expertise of ICAN's staff, the organization will seek out cases with precedent-setting potential, positioning the organization to begin developing **a legal bulwark against SEC efforts to further restrict capital markets access.**
- **Ensure that the interests and concerns of investors and entrepreneurs are well represented.** ICAN will produce a steady stream of amicus briefs, regulatory submissions, and other communications intended to **draw official attention among the country's judiciary and regulatory bodies to the serious challenges facing investors and entrepreneurs in accessing capital markets.**
- Seek and develop creative opportunities to educate the wider public about **the crucial role robust capital markets play in creating a healthy, vibrant economy, where upward mobility is an opportunity available to all.**

## An Early Record of Action

ICAN's efforts in 2023 will build on the organization's early success. Since its soft launch in May of 2022, with an all-volunteer staff, ICAN has:

- Filed 7 [amicus briefs](#) that garnered the support of an impressive list of prominent legal scholars, well-known business leaders, and former SEC Commissioners who joined ICAN as co-signatories on the organization's briefs.
- Submitted petitions and testimony with the SEC and other regulatory bodies, urging the courts and regulators to reduce barriers faced by investors and entrepreneurs in accessing capital markets.
- Began hosting [SEC Roundup](#), a bimonthly video series exploring current SEC topics with thought leaders and industry experts.
- Brought together, through its efforts, partners from across the political spectrum, highlighting the degree to which breaking down barriers to capital markets is an issue that transcends political ideology.
- Been the subject of at least a half dozen [press mentions](#).

## **EVALUATING SUCCESS**

In the long run, **ICAN's success will be measured by the degree to which the barriers to entry to capital markets are reduced**, resulting in a robust economy, where more individuals are free to enjoy the benefits of access to capital markets and innovation is allowed to flourish.

In the short run, the organization's impact will be measured by:

- The number of individual investors and entrepreneurs who are directly helped by ICAN legal efforts.
- The number of ICAN-sponsored cases that establish durable, clear limits on the SEC's authority.
- The number of times ICAN writings are referenced or cited in legal or regulatory decisions.
- The number of concrete examples of ICAN successfully expanding public conversation about the impact of SEC policies on average Americans.

## **WHAT IT WILL TAKE**

**ICAN's mission is an ambitious one: To push back against the daunting reach of a government agency with the latitude to define its own scope and its own rules of**

**engagement.** An agency that in its fervor is too often harming the very people it is charged with supporting and protecting. **An agency with a reach and activist bent that is only growing with each passing year.**

However, not only can the SEC's overweening overreach be halted, the agency's unwieldy powers can be corralled back within their rightful boundaries. The result: The unleashing of the full potential of American markets and the small investors and entrepreneurs whose energy and creativity help to drive a healthy, robust economy.

**ICAN has the know-how, the experience, and the technical expertise to achieve that mission.** Litigation is expensive and time intensive. But every strategically selected case ICAN litigates represents an opportunity to defend the rights of a small investor or entrepreneur from an avarice administrative state, while, at the same time, erecting and strengthening a growing legal bulwark against SEC efforts to further restrict capital markets access.

**The more resources available to ICAN, the more cases the organization can take on. The larger the number of cases, the greater that legal bulwark will become.**