On the Law: Reviewing the Acts of 1933 and 1934

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September 16, 2025

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On the Law: Comparing and Contrasting the Acts of 1933, 1934, 1940 ICA, 1940 IAA, and SOX 2001

Introis

During the early 20th century, several financial laws and the creation of the Securities and Exchange Commission (SEC) have been decreed by the federal government to protect investors, companies, and financial institutions to prevent exploitation of markets and investors. Prior to the Great Depression of the 1930's, the stock market was at its early-20th century peak with DOW Jones Industrial Average measuring a record high value of $381.17. The main contribution towards a bullish market was a combination of bullish speculation, deregulation on exchange-listed corporations, easy credit due to low interest rates, and the widespread practice of purchasing securities on margin without regulations. However, as much as there was bullish stockholder speculation that almost lasted the 1920's, prohibited market manipulation and fraudulent practices like insider trading, lack of transparency between exchange companies and stockholders, and fraudulent schemes were rampant, eventually contributing to a financial crisis partly fueled by what the law defines as unethical and illegal acts in the financial industry. Shortly after the Great Depression, the federal government took initiative to address one of the greatest factors of the largest financial crisis in modern history- financial fraud and a lack of regulation on securities. These initiatives were signed into federal law, as well as being adopted by the incorporation doctrine of US States, which include the Securities Act of 1933, Securities Exchange Act of 1934, Investment Company Act of 1940, Investment Advisers Act of 1940, and the Sarbanes–Oxley Act of 2002.

On the Act of 1933

The Act of 1933, known as the primary act for its association to the primary market, is a law concerning the new issuance of securities prior to their circulation in the secondary market. [1]As suggested by its titular year, it was passed shortly after the Great Depression in the year 1933 to ensure full trust and transparency for newly-issued securities to the general public, as it regulates the sale of initial public offerings (IPOs), the tombstone period, and outlines the procedures that companies going public are to follow as enforced by the SEC.

According to the Act of 1933, when a non-public corporation plans to raise capital by means of raising money, and it also intends to shift its direction towards widening its horizons with investors, they undergo a process called “going public” through an IPO- this is the first step of securities issuance in the primary market. [2] Imagine a company with this goal, let’s call the business XYZ in this example. In the primary market, XYZ would have to register with the SEC through filing a registration form called Form S-1, followed by consultation of an investment bank to work as underwriters for the process of an IPO. In a Form S-1, registration is marked effective once the SEC determines that XYZ clearly outlines financial data, management biographies, and risk factors, which forms the prospectus for potential investors. The underwriter would then have to either participate as agents or principals, underwriters participating as agents are considered acting in “best efforts”, where any unsold security is not retained by the underwriter. This means that when acting as an agent, the underwriter does not purchase the securities, and they agree to use their "best efforts" to sell the securities on behalf of the issuer, resulting in the underwriter not bearing the risk of facing unsold securities (i.e. common stock).

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[1] Congress. Securities Act of 1933. U.S. Government Publishing Office, amended July 18 2025. GovInfo, https://www.govinfo.gov/app/details/COMPS-1884
[2] Rodriguez-Arana, E. (2025, July). The Primary Market and Secondary Market.

An underwriter acting as principal would do the opposite- it would purchase the securities in question, and encounter the risk of illiquidity when they are unable to resell the securities at a profit or if their market value falls.

On the Act of 1934

The act of 1934 or also known as the Securities Exchange Act of 1934, was signed into law to form the Securities and Exchange Commission (SEC) to regulate capital markets and ensure fairness for investors. During the early twentieth century, there was a lack of government involvement and regulation concerning the exchange of securities. Hence, this introduced law focuses primarily on protecting consumers (or investors) from fraudulent practices in the financial industry.[3]

As shown in our article, *A Short Treatise on Prohibited and Illegal Activities Pertaining to the Securities Industry*,[4] The Act of 1934 outlines the legal definitions of prohibited activities, regulators, and regulations. The Act of 1934 enforces and upholds the clause in which the SEC's regulatory framework supersedes those of FINRA and any blue sky law or state regulator. This means that every principle regulation on churning, frontrunning, etc are supported by the Act of 1934, the SEC's authority, and any methodology to enforce federal law.

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[3] Congress. Securities Exchange Act of 1934. U.S. Government Publishing Office. PDF available at SEC.gov. https://www.sec.gov/file/securities-exchange-act-1934-0

[4] Rodriguez-Arana, E. (2025, September). A Short Treatise on Prohibited and Illegal Activities Pertaining to the Securities Industry