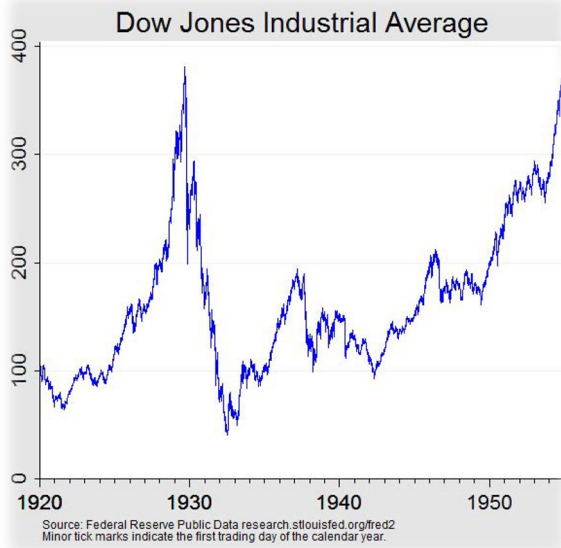


Need for Financial Regulation



'33 Act = Primary Market

- Requires registration and a prospectus before securities can be sold to the public
- **How to Avoid It:** Sell securities in private placement
 - Reg D 506(b): You can sell to an unlimited number of accredited investors, but no general solicitation (advertising)
 - Reg D 506(c) – Added by the JOBS Act in 2012
 - You can advertise publicly
 - But every investor must be verified as accredited (not just self-certified)

‘34 Act = Secondary Market

- Creates the SEC itself and requires periodic reporting
 - 10-K, 10-Q, 8-K
- **How to Avoid It:**
 - Don't list on an exchange (12(b))
 - Have fewer than 2,000 shareholders (12(g))
 - Employees don't count
 - Fund = 1 shareholder (no look-through)

'40 Act = Funds

- Regulates pooled investment vehicles
- Leverage limits, independent boards, liquidity management rules, leverage limits
- **How to Avoid It** (i.e. hedge funds and private funds)
 - 3(c)(1) – Max 100 investors, accredited
 - VCs get special treatment
 - 3(c)(7) – Unlimited, qualified purchasers

Adviser Act = People

- Advisers (sponsors) need to register with SEC or state regulator (SEC exams, disclosures)
- Imposition of fiduciary duty
- **How to Avoid It**
 - Private Fund Adviser Exemption:
 - AUM < \$150mm and Advise only private funds (3(c)(1) and 3(c)(7))
 - VC adviser Exemption
 - Advise only VC funds