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What is a security?

- Security Act of 33
 - Covers any time a company wants to sell securities
 - Any time you tell the law, you have the ability to sell
 - Fed gov't doesn't tell you if it's a good investment, it just gives you a green light.
 - State law
 - Pre-empted in certain areas by fed law
- Sarbanes-Oxley Act of 2002
 - Strengthens and expands pre July 29, 2002 corporate governance and disclosure regime
 - Most fundamental change since 33 and 34 Acts
 - Security: "investment contract"
 - Lots of wiggle room
- Whether you are a public or private company, you need to see if there is a way you can actually sell.
- Fairness hearings; few states have them. If the jurisdictional state says the deal is fair, you don't have to go through the whole SEC process. It can be done much quickly (20-90 days).
- Safe harbor provides level of certainty
- Rule 149 is what investors look at.