

International Venture Capital Terms

Weitnauer

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International Venture Capital Terms

A Handbook

edited by

Wolfgang Weitnauer

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Foreword

As all capital investments, Venture Capital investments are global. However, they are made in different legal environments. Therefore, the idea was born to illustrate the general legal and tax frameworks for founders, start-up companies and VC investors in some of the major industrialized markets (to start with) and to illustrate further in which manner VC investments are implemented in the respective countries. Since this book is meant as a guidance not only for legal advisors, but also (and mainly) for practitioners, it is concentrating on legal basics, but also illustrates standard terms as usually used for investment documents in the various countries. The overview in the Appendix summarizes the national characteristics in order to allow an easier comparison.

This work would not have been possible and would not have been finished without the persistent support of all authors from all over the world. Therefore, my thanks are due to all of them for contributing their profound experiences and knowledge of the VC practice, but also to Aleksandra Hadžić on the editor's side who helped with her tremendous dedication to finalize this comparative work. It was possible for us to achieve its finalization despite the impediments which the Corona pandemic created for our daily work life. However, this work gains all the more importance, since the Corona pandemic shows the importance of start-ups and VC investments for innovative developments in the area of life sciences and information technology, let alone the importance of innovations in the area of renewable energies for the protection of our environment and the challenges of the climate change.

Munich, March 2022

Dr. Wolfgang Weitnauer

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Abbreviations

102 Route	A special tax route available for employees, with respect to option grants, under Section 102 of the Israeli Income Tax Ordinance [New Version]
ABGB	Austrian General Civil Code (<i>Allgemeines Bürgerliches Gesetzbuch</i>)
ACE	Allowance for corporate equity
ACM	Dutch Authority for Consumers & Markets (<i>Autoriteit Consument & Markt</i>)
AD	Authorised Dealer
AEBAN	Spanish Business Angels Association (<i>Asociación Española de Business Angels</i>)
AEUV	Treaty of the Functioning of the European Union (<i>Vertrag über die Arbeitsweise der Europäischen Union</i>)
AFM	The Netherlands Authority for the Financial Markets (<i>Autoriteit Financiële Markten</i>)
AG	stock corporation (<i>Aktiengesellschaft</i>)
AGID	Italian Agency for Digital (<i>Agenzia Italiana per il Digitale</i>)
agritech	agricultural technology
AID	Authority for Investments and Development (Israel)
AIF	alternative investment fund
AIFI	Italian Association of Venture Capital, Private Equity and Private Debt (<i>Associazione Italiana del Private Equity, Venture Capital e Private Debt</i>)
AIFM	alternative investment fund manager
AIFMG	Alternative Investment Fund Statute (<i>Alternative Investmentfonds Manager-Gesetz</i>)
AIFO	Italian Association of Family Officers (<i>Associazione Italiana Family Officer</i>)
AIM	alternative investment market
AJP	<i>Aktuelle Juristische Praxis</i> (Swiss Journal)
AktG	Stock Corporation Act (<i>Aktiengesetz</i>)
AMAC	Asset Management Association of China
AMCs	Authorised Money Changers
AML	anti-money laundering
AMLA	Federal Act on Combating Money Laundering and Terrorist Financing (<i>Geldwäschereigesetz</i>)
AMR	Administrations for Market Regulation
AngG	Austrian White Collar Workers Act (<i>Angestelltengesetz</i>)
AO	German Fiscal Code (<i>Abgabenordnung</i>)
AoA	Articles of Association
ArbEG	German Act on Employees' Inventions (<i>Arbeitnehmererfindungsgesetz</i>)
ARCAP	Argentine Association of Private Capital, Entrepreneurs, and Seeds (<i>Asociación Argentina de Capital Privado, Emprendedor y Semilla</i>)
ARS	Argentine peso
Art./Arts	Article(s)
ASCRI	Spanish venture capital and private equity association (<i>Asociación Española de Capital, Crecimiento e Inversión</i>)
ASVG	Austrian General Social Security Law (<i>Allgemeines Sozialversicherungsgesetz</i>)
AVCO	Austrian Private Equity and Venture Capital Organisation
AWS	Austrian Economy Service Agency (<i>Austria Wirtschaftsservice</i>)

Abbreviations

AWV	Foreign Trade and Payments Ordinance (<i>Außenwirtschaftsverordnung</i>) (Germany)
B.V.	Dutch private limited liability company (<i>besloten vennootschap</i>)
BAC	Beijing Arbitration Commission
BaFin	Federal Financial Supervisory Authority (<i>Bundesanstalt für Finanzdienstleistungsaufsicht</i>)
BCRA	Argentine Central Bank (<i>Banco Central de la República Argentina</i>)
BGB	German Civil Code (<i>Bürgerliches Gesetzbuch</i>)
BGE	Decision of the Swiss Supreme Court (highest court of Switzerland) (<i>Bundesgerichtsentscheid</i>)
biotech	biotechnology
BKartA	German Cartel Office (<i>Bundeskartellamt</i>)
BMBF	German Federal Ministry for Education and Research (<i>Bundesministerium für Bildung und Forschung</i>)
BME	<i>Bolsas y Mercados Españoles, Sociedad Holding de Mercados y Sistemas Financieros, S.A.</i>
BMVK	Dutch investment company with variable capital (Beleggingsmaatschappij met veranderlijk kapitaal)
BMWi	German Federal Ministry for Economic Affairs and Energy (<i>Bundesministerium für Wirtschaft und Energie</i>)
bn	billion
BörsG	German Stock Exchange Act (<i>Börsengesetz</i>)
BörsZulV	German Exchange Admissions Regulation (<i>Börsenzulassungsverordnung</i>)
BRL	Brazilian real
BSA	<i>Bon de Souscription d'Actions</i>
BVCA	British Private Equity & Venture Capital Association
C.V.	Dutch limited partnership (<i>commanditaire vennootschap</i>)
CA	Competition Act
CBIRC	China Banking and Insurance Regulatory Commission
CBRC	China Banking Regulatory Commission (had been combined with CIRC to CBIRC in April, 2018)
CCI	Competition Commission of India
cf.	compare
CGI	<i>Code général des impôts</i>
CIETAC	China International Economic and Trade Arbitration Commission
CII	<i>Crédit d'impôt innovation</i>
CIR	<i>Crédit d'impôt recherche</i>
CIRC	China Insurance Regulatory Commission (had been combined with China Banking Regulatory Commission to CBIRC in April 2018)
CISA	Collective Investment Scheme Act (<i>Kollektivanlagegesetz</i>)
CIT	Corporate Income Tax
CLA	Convertible Loan Agreement
CMF	Corona Matching Facility (<i>Corona Matching Fazilität</i>)
CMF	Financial Market Commission (<i>Comisión del Mercado Financiero</i>)
CNMV	Spanish National Securities Market Commission (<i>Comisión Nacional del Mercado de Valores</i>)
CNV	Argentine Securities and Exchange Commission (<i>Comisión Nacional de Valores</i>)
CO	Swiss Code of Obligations (<i>Obligationenrecht</i>)
CONSOB	Italian National Commission on Companies and Stock Exchange (<i>Commissione Nazionale per le Società e la Borsa</i>)
CORFO	Production Development Corporation (<i>Corporación de Fomento de la Producción</i>)
CovInsAG	Act to Temporarily Suspend the Obligation to File for Insolvency and to Limit Directors' Liability in the Case of Insolvency Caused by the COVID-19 Pandemic (<i>COVID-19-Insolvenzaussetzungsgesetz</i>)
CP	conversion price
CPI	Consumer Price Index
CSOP	Company Share Option Plan

Abbreviations

CSR	Corporate Social Responsibility
CSRC	China Securities Regulatory Commission
CVC	corporate venture capital
CVC	Corporate VC
CVM	Securities and Exchange Commission of Brazil (<i>Comissão de Valores Mobiliários</i>)
D&O	Directors & Officers
DBA	Dutch Bankruptcy Act (<i>Faillissementswet</i>)
DBG	Federal Act on Direct Federal Tax (<i>Bundesgesetz über die direkte Bundessteuer</i>)
DCC	Dutch Civil Code (<i>Burgerlijk Wetboek</i>)
DFSA	Dutch Financial Supervision Act (<i>Wet op het financieel toezicht</i>)
DI	Debt Instruments
DSIR	Department of Scientific and Industrial Research
DTH	Direct-to-Home
EBAN	European Business Angels Network
ECBs	External Commercial Borrowings
ECR	Venture capital entities (<i>entidades de capital-riesgo</i>), both in the form of SCR and FCR
ECR Law	Law 22/2014, dated November 12, regulating the venture capital and private equity entities, other closed collective investment entities and the management companies of closed collective investment entities, and amending Law 35/2003, dated November 4, of collective investment institutions
ed-tech	education technology
EEA	European Economic Area
EFTA	European Free Trade Association
EHRA	Federal Office for the Commercial Register
EII	Dutch Exempt Investment Institution
EIRELI	Brazilian single holder limited liability entity (<i>Empresa Individual de Responsabilidade Limitada</i>)
EIS	Enterprise Investment Scheme
EMI	Enterprise Management Incentive
EPOS	Easy Payment on Shares
ERISA	Employee Retirement Security Act of 1974
ESMA	European Securities Market Authority
ESOP	Employee Stock Option Plan
EStG	Income Tax Law (<i>Einkommensteuergesetz</i>)
et seq.	and the following one
EU	European Union
EUR	euro
EuSEFs	EU Social Entrepreneurship Funds
EuVECA funds	European Venture Capital funds
FCPI	<i>Fonds Commun de Placement dans l'Innovation</i>
FCPR	<i>Fonds Communs de Placement à Risques</i>
FCR	Venture capital fund (<i>fondo de capital-riesgo</i>)
FDI	Foreign Direct Investment
FEMA	Foreign Exchange Management Act, 1999
FFG	Austrian Research Promotion Agency (<i>Forschungsförderungsgesellschaft</i>)
FGR	<i>fonds voor gemene rekening</i>
FIDES	Chilean Investment Funds for Business Development (<i>Fondos de Inversión de Desarrollo de Empresas</i>)
FII	Dutch Fiscal Investment Institution; Italian Investments Fund (<i>Fondo Italiano d'Investimento SGR</i>)
FINMA	Swiss Financial Market Supervisory Authority
FINMA AMLO	FINMA Anti-Money Laundering Ordinance
FinMIA	Federal Act on Financial Market Infrastructures and Market Conduct in Securities and Derivatives Trading
fintech	financial technologies

Abbreviations

FIP	Private Equity Funds (<i>Fundos de Investimento em Participações</i>)
FMA	Austrian Financial Market Authority (<i>Finanzmarktaufsicht</i>)
FMV	Fair Market Value
fn(s)	footnote(s)
FNI	Italian National Innovation Fund (<i>Fondo Nazionale Innovazione</i>)
FOIA	Freedom of Information Act
FONDCE	Argentinian Trust Fund for the Development of Entrepreneurial Capital (<i>Fondo Fiduciario para el Desarrollo del Capital Emprendedor</i>)
FPCI	<i>Fonds professionnel de capital investissement</i>
FPI	Foreign Portfolio Investors
FVCIs	Foreign Venture Capital Investors
FY(s)	fiscal year(s)
FZulG	German Law Regulating Tax Incentives for Research and Development (<i>Forschungszulagengesetz</i>)
GAAP	Generally Accepted Accounting Principles
GBER	General Block Exemption Regulation
GDP	gross domestic product
GDPR	General Data Protection Regulation
GmbH	Austrian/German/Swiss limited liability company (<i>Gesellschaft mit beschränkter Haftung</i>)
GmbHG	Limited Liability Companies Act (<i>Gesetz betreffend die Gesellschaften mit beschränkter Haftung</i>)
GoI	Government of India
GP	General Partner
GWB	Act against Restraints of Competition (<i>Gesetz gegen Wettbewerbsbeschränkungen</i>)
GwG	German Money Laundering Act (<i>Geldwäschegesetz</i>)
HGB	German Commercial Code (<i>Handelsgesetzbuch</i>)
HKEX	Hong Kong Exchanges and Clearing Limited
HMO(s)	health management organization(s)
HMRC	HM Revenue & Customs, the UK taxation authority
HNWIs	High Net Worth Individuals
IBAN	Italian Business Angels Network
ibid.	in the same place (<i>ibidem</i>)
ICC	Italian Civil Code
ICO(s)	Initial Coin Offering(s)
ICP	Internet Content Provider
ICT	Information and Communications Technology
id.	the same (<i>idem</i>)
IFRS	International Financial Reporting Standards
IIA	Israel Innovation Authority
Innovation Law	The Encouragement of Research, Development and Technological Innovation in the Industry Law-1984, as amended from time to time, and the regulations promulgated thereunder
INR	Indian rupee
InsO	German Insolvency Statute (<i>Insolvenzordnung</i>)
InvAG	investment stock companies (<i>Investmentaktiengesellschaften</i>)
Investor	VC investor interested in an investment into a Company
InvFG	Austrian Investment Fund Act (<i>Österreichisches Investmentfondsgesetz</i>)
INVITALIA	National Agency for the attraction of Investments and Enterprise Development (<i>Agenzia nazionale per l'attrazione degli investimenti e lo sviluppo d'impresa</i>)
InvITs	Infrastructure Investment Trusts
InvKG	Investment Limited Partnership (<i>Investmentkommanditgesellschaft</i>)
IoT	Internet of Things
IP	Intellectual Property
IPO	Initial Public Offering
IRAP	Italian Regional Production Tax (<i>imposta regionale sulle attività produttive</i>)

Abbreviations

IRES	Italian Corporate Income Tax (<i>imposta sul reddito delle società</i>)
IRR	internal rate of return
ISHA	Investment and Shareholders' Agreement
IST(s)	Israeli term sheet(s)
ITA	Israeli Tax Authority
ITO	Income Tax Ordinance
ITP	Institutional Trading Platform
JASDAQ	Japan Association of Securities Dealers Automatic Quotations
JEI	<i>Jeune Enterprise Innovante</i>
JOBS Act	Jumpstart Our Business Startups Act
JPY	Japanese yen
KAGB	German Capital Investment Code (<i>Kapitalanlagegesetzbuch</i>)
KfW	<i>Kreditanstalt für Wiederaufbau</i>
KMU	Small and medium-sized companies (<i>Kleine und mittlere Unternehmen</i>)
KPI	Key Performance Indicator
KStG	German Corporate Tax Act (<i>Körperschaftsteuergesetz</i>)
KYC	Know Your Customer
LAVCA	Latin America Venture Capital Association
LLC	Limited Liability Company
LPs	Limited Partners
LSE	London Stock Exchange
m	million
M&A	Mergers and Acquisitions
MAR	Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC
MEF	Ministry of Economic and Finance (<i>Ministero dell' Economia e Finanze</i>)
MFN	most-favoured nation
MILA	Latin American Integrated Market (<i>Mercado Integrado Latinoamericano</i>)
MISE	Ministry of Economic Development (<i>Ministero dello Sviluppo Economico</i>)
MIV	Market For Investment Vehicles
MKI	Chilean Capital Market Law reform (2002) (<i>Ley de Mercado de Capitales 1</i>)
MKII	Second Chilean Capital Markets Law reform (2007) (<i>Ley de Mercado de Capitales 2</i>)
MKIII	Third Chilean Capital Markets Law reform (<i>Ley de Mercado de Capitales 3</i>)
mn(s)	marginal number(s)
MOIE	Israeli Ministry of Industry and Economy
MTA	Telematic Stock Market (<i>Mercato Telematico Azionario</i>)
MTF	multilateral trading facility
MVP	minimum viable product
N.V.	Dutch public limited liability company (<i>naamloze vennootschap</i>)
NASDAQ	National Association of Securities Dealers Automated Quotations
NCLT	National Company Law Tribunal
NDI Rules	Foreign Exchange Management (Non-debt Instruments) Rules, 2019
NEEQ	National Equities Exchange and Quotations
NFP	Net Financial Position
NIS	New Israeli Shekel
no./nos.	number(s)
NPC	National People's Congress
NPCSC	Standing Committee of the National People's Congress
NVCA	National Venture Capital Association
NVCA	National Venture Capital Association

Abbreviations

NVP	Dutch Association of Investment Companies (<i>Nederlandse Vereniging van Participatiemaatschappijen</i>)
NYSE	New York Stock Exchange
OBSA	<i>Obligation à Bon de Souscription d'Actions</i>
OECD	Organisation for Economic Co-operation and Development
OGAW	Undertakings for Collective Investments in Transferable Securities (UCITS) (<i>Organismen für gemeinsame Anlagen in Wertpapieren</i>)
OPC	One Person Company
OPS	Public Subscription Offering (<i>Offerte Pubbliche di Sottoscrizione</i>)
OPV	Public Sales Offering (<i>Offerte Pubbliche di Vendita</i>)
OPVS	Public Sale and Subscription Offerings (<i>Offerte Pubbliche di Vendita e Sottoscrizione</i>)
P2P	Peer-to-Peer
para./paras.	paragraph(s)
PCTCT	profit chargeable to corporation tax
PFLP	Private Fund Limited Partnership
PIIA	Confidentiality, non-compete, proprietary information and inventions assignment undertaking
PMI	Small & Medium-Sized Enterprises (SME) (<i>piccolo e medie imprese</i>)
PRC	People's Republic of China
QSBS	Qualified Small Business Stock
R&D	Research and Development
R&W	Representations and Warranties
RBI	Reserve Bank of India
Reg A+	Regulation A+
RegCF	Regulation Crowdfunding
REITs	Real Estate Investment Trusts
RMB	renminbi, official currency of China
RoC	Registrar of Companies
ROFR	Right of First Refusal
ROI	Return on Investment
RVO	Netherlands Enterprise Agency (<i>Rijksdienst voor Ondernemend Nederland</i>)
S.A.	Public limited company (<i>sociedad anónima</i>)
S.L.	Limited liability company (<i>sociedad de responsabilidad limitada</i>)
SEIS	Small/Enterprise Investment Scheme
SA	Corporation (South America: <i>Sociedad Anónima</i> ; France: <i>Société Anonyme</i>)
SAFE	Simple Agreement for Future Equity
SanInsFoG	Statute on the Further Development of the Restructuring and Insolvency Law (<i>Gesetz zur Fortentwicklung des Sanierungs- und Insolvenzrechts</i>)
SARL	<i>Société a responsabilité limitée</i>
SAS	Simplified joint stock corporation (<i>Argentina: Sociedad por Acciones Simplificada; France: Société par actions simplifiée</i>)
SASCO	Colombian simplified joint stock corporation (<i>Sociedad por Acciones Simplificada Colombia</i>)
SCL	Royal Legislative Decree 1/2010, dated July 2, approving the consolidated text of the companies law
SCR	Venture capital company (<i>sociedad de capital-riesgo</i>)
SCR	<i>société à capital risque</i>
SEBI	Securities Exchange Board of India
SEC	Security and Exchange Commission
SECA	Swiss Private Equity & Corporate Finance Association (SECA).
SEIS	Seed Enterprise Investment Scheme
SEZs	Special Economic Zones
SFP	Participation Financial Instruments (<i>Strumenti Finanziari Partecipativi</i>)
SGR	Asset Management Company (<i>Società di Gestione del Risparmio</i>)
SISTIC	Swiss ICT Investor Club

Abbreviations

SLU	Single-Member LLC (<i>Sociedade Limitada Unipessoal</i>)
SME	Small & Medium-Sized Enterprises
SML	Royal Legislative Decree 4/2015, dated October 23, approving the restated text of the securities market law
SOGC	Swiss Official Gazette of Commerce
SPA	Share Purchase Agreement
SpA	Italian joint-stock company (<i>Italy: Società per Azioni; Chile: Sociedad por Acciones Chilena</i>)
SPAC	Special Purpose Acquisition Company
SPC	Swiss Penal Code (<i>Strafgesetzbuch</i>)
Srl	limited liability company (<i>Italy: Società a Responsabilità Limitata; Argentina: Sociedad de Responsabilidad Limitada</i>)
SSHW	<i>Schweizer Schriften zum Handels- und Wirtschaftsrecht</i> (Swiss journal on commercial and business law)
StaRUG	German Stabilization and Restructuring Act (<i>Gesetz über den Stabilisierungs- und Restrukturierungsrahmen für Unternehmen</i>)
StHG	Federal Act on Tax Harmonization (<i>Steuerharmonisierungsgesetz</i>)
STI	Innovative Start-Up (<i>startup innovativa</i>)
STO(s)	Security Token Offering(s)
SWK	<i>Steuer- und WirtschaftsKartei</i> (Austrian professional journal for tax law)
TFEU	Treaty on the Functioning of the European Union
TSE	Tokyo Stock Exchange
TTR	Transactional Track Record (https://www.ttrecord.com/)
TUIR	Italian Tax Law
UBO	ultimate beneficial owner
UCITS	Undertakings for collective investments in transferable securities
UG	Entrepreneur Company (<i>Unternehmergesellschaft (haftungsbeschränkt)</i>)
UGB	Austrian Commercial Code (<i>Unternehmensgesetzbuch</i>)
UmwG	Transformation Act (<i>Umwandlungsgesetz</i>)
USD	U.S. dollar
UStG	German Value Added Tax Act (<i>Umsatzsteuergesetz</i>)
VAM	Valuation Adjustment Mechanism
VAT	Value Added Tax
VC	Venture Capital
VCT	Venture Capital Trust
VermAnlG	German Investment Act (<i>Vermögensanlagengesetz</i>)
VIE	Variable Interest Entities
WBSO	<i>Wet Bevordering Speur- en Ontwikkelingswerk</i>
WHT	Withholding Tax
WiEReG	Austrian Register of Ultimate Beneficial Owners (<i>Wirtschaftliche Eigentümer Registergesetz</i>)
WpHG	German Securities Trading Law (<i>Gesetz über den Wertpapierhandel</i>)
WWFT	Dutch Anti-Money Laundering and Anti-Terrorist Financing Act (<i>Wet ter voorkoming van witwassen en financieren van terrorisme</i>)
ZEW	Leibniz Centre for European Economic Research (<i>Leibniz-Zentrum für Europäische Wirtschaftsforschung</i>)

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