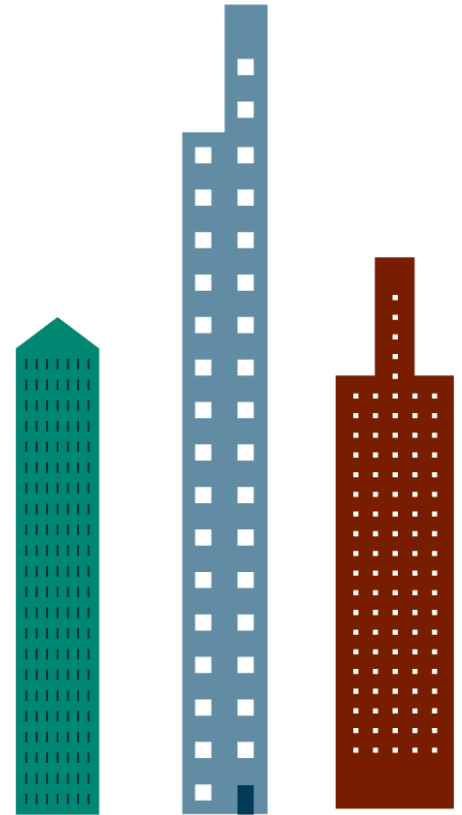


# Corporate venturing

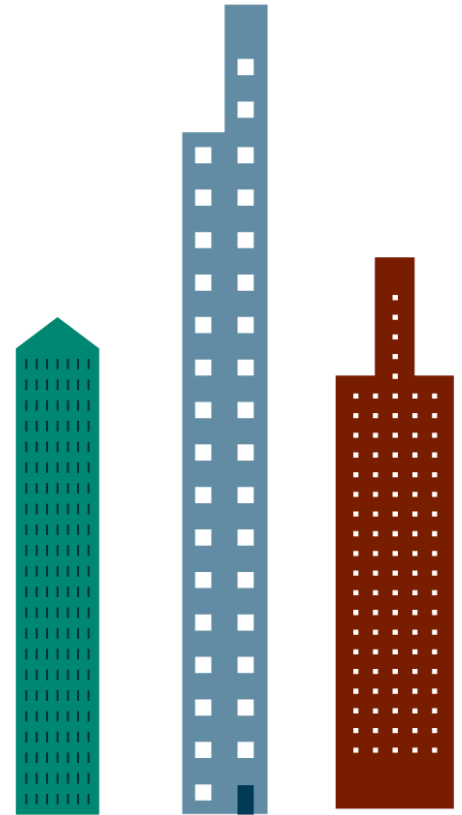
Mathias Loertscher



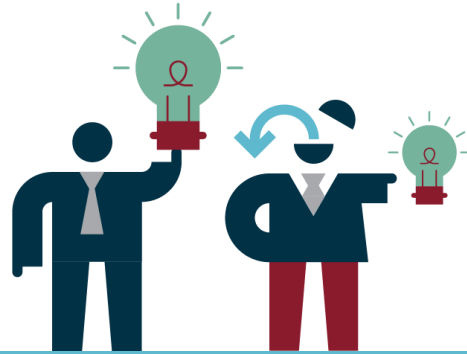
# What is corporate venture capital (CVC)?



# CVC corporate structure



# Context for the investment



## Key documents:

- Subscription Agreement
- Shareholders' Agreement
- Articles of Association
- Commercial agreement?

## Other parties:

- Investee company
- Founders/Management
- Angel investors/Friends & Family
- Institutional venture capital funds
- Other CVCs?

## Key terms and legal considerations

Share rights

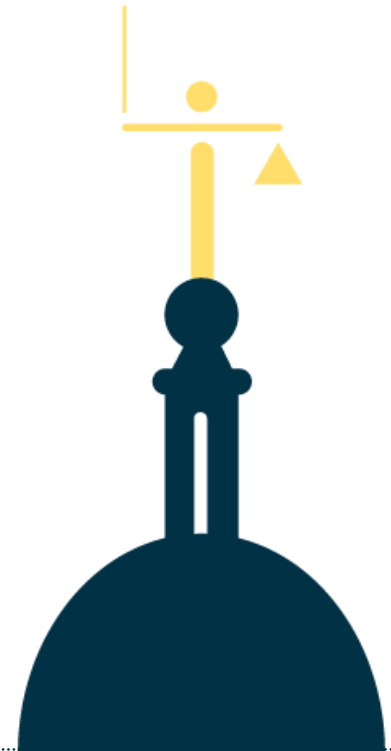
Board governance

Consent matters

Information rights

Commercial arrangements

Exits



# Subscribing for shares

## Key terms of the Subscription Agreement

Initial  
investment for  
shares

Additional  
investment  
option or  
obligation?

Warranties



# Share rights

CVC class of shares: normally a class of **preferred shares**

Share Right	Preferred Shares
Voting	<ul style="list-style-type: none"><li>• Rank alongside other shares and voting pro rata to number of shares held?</li><li>• Enhanced voting rights for CVCs?</li></ul>
Income (dividends)	<ul style="list-style-type: none"><li>• Rank alongside other shares and dividends paid pro rata to number of shares held?</li><li>• Preferential dividends – fixed dividends (% of investment) or participating dividends ahead of ordinary shares; cumulative if not paid?</li></ul>

# Share rights (cont'd)

Share Right	Preferred Shares
Capital (return of capital or sale)	<ul style="list-style-type: none"><li>• Rank ahead of ordinary shares (and earlier preferred shares?) on return of capital or sale</li><li>• "Participating" or "non-participating":<ul style="list-style-type: none"><li>• <b>Participating</b>: entitled to both amount paid for shares (or a multiple of it) and to participate in the balance of proceeds available pro rata with the ordinary shares;</li><li>• <b>Non-participating</b>: entitled to the <i>higher of</i> amount paid for shares (or a multiple of it) and amount which they would receive if shares were converted into ordinary shares and participated pro rata.</li></ul></li></ul>



# Share rights (cont'd)

Share Right	Preferred Shares
Pre-emption rights	<ul style="list-style-type: none"><li>• Right to participate in future share allotments and share transfers</li><li>• Should investors have priority over other shareholders?</li></ul>
Drag Along	<ul style="list-style-type: none"><li>• Prescribed majority of shareholders to have right to compel other shareholders to sell their shares as part of a sale</li><li>• Does the investor need to be part of dragging majority?</li><li>• If not, in what circumstances can the investor be dragged (and to whom)?</li></ul>
Co-Sale Rights	<ul style="list-style-type: none"><li>• Right to sell a proportionate number of shares if a Founder (or sometimes any other shareholder) sells shares</li></ul>
Tag Along	<ul style="list-style-type: none"><li>• If there is a share transfer which would trigger a change of control, the other shareholders are entitled to sell their shares at the same time and on the same terms</li></ul>

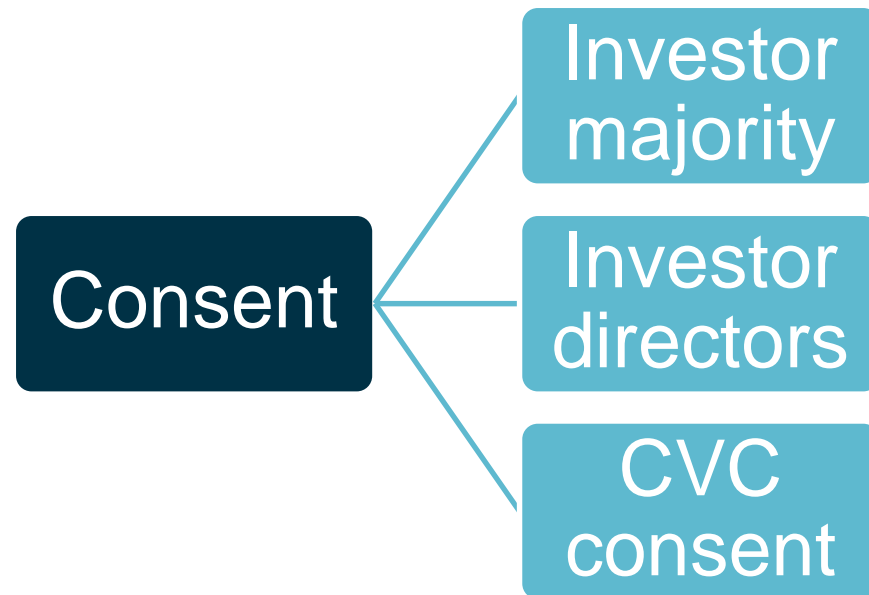
# Board governance

What is the **board composition** and what rights (if any) does the CVC have to appoint a director?



# Consent matters

Certain important company actions may require CVC consent



CVC Specific Issues

Positive Undertakings



# Information rights



**Financial information**



**Trading updates**



**Exit offers and discussions**



# Commercial arrangements

## Timing:

- Co-ordinating signing of the commercial deal with closing the funding round can be challenging

## Condition to completion:

- Desire to complete commercial arrangements will depend on significance/ value of commercial arrangement vs financial investment for both sides

## Alternatives:

- If fully negotiated agreement is not possible before signing, consider alternatives (MOU or similar)

## Connection to shareholder rights:

- CVC investor rights may be tied to benefits under commercial arrangement being realised by the company

## Benefit or burden:

- If commercial arrangement is too "extractive" or focuses the company's development too much on the CVC, CVC's investment may be less attractive

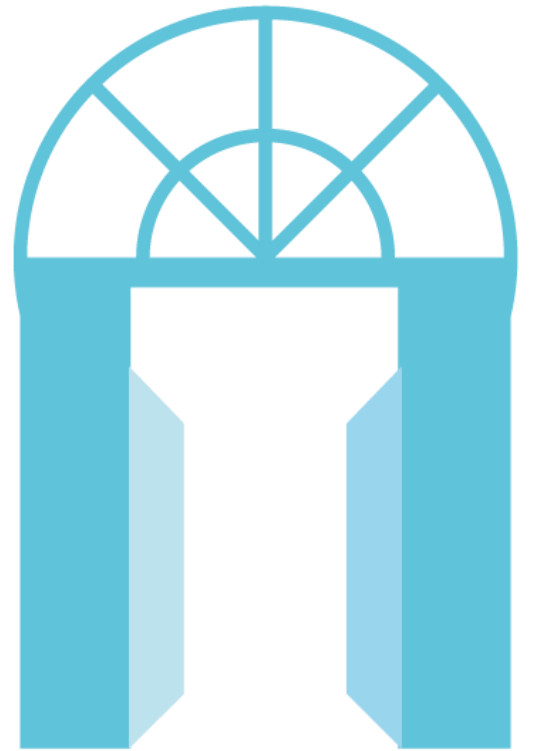
# Exits

**Path to  
control**

**ROFR /  
matching  
rights**

**Drag along  
rights**

**Competitors**



---

# Questions?

