DEAL FLOW 4.0

European Venture Capital Deal Term Review 2023-24

orrick

STANDOUT FOR INNOVATION USING DATA (EUROPE)

FT FINANCIAL TIMES INNOVATIVE LAWYERS

EUROPEAN VENTURE CAPITAL

European Tech Deal Terms: Five Things We Learned in 2023

Venture capital investment in European startups reached over $60B last year, higher than pre-pandemic levels but lower than the highs of 2021 and 2022.

To see how this changed deal terms, Orrick used in-house technologies, systems and processes to undertake a deep and unparalleled analysis of the deal terms of over 350 venture capital and growth equity investments our clients completed in Europe last year.

Here are five key things we learned:

1. Market instability encouraged more investor-friendly terms.

- **Over 95%** of deals required the **more stringent** consent of an investor director, lead investor or an investor majority. We saw a keen desire for investors to retain control of key matters in the operation of portfolio companies.
- Founders were required to stand behind warranties in **39% of venture deals**, despite the new British Private Equity & Venture Capital Association model form documents (published in February 2023) providing for company-given warranties only. We saw this as a cumbersome (and arguably unnecessary) negotiation point resulting in protracted deal timelines and demonstrating a lack of understanding of the new warranty pack.
- We continued to see a push for **stringent information rights** (annual, quarterly and monthly) from investors, as they (often led by their LPs) kept an eye on portfolio companies. New market norms attempted to limit the administrative burden on companies through thresholds for information rights, but this practice faced regular challenges.
- Lead investors had protected **board appointment rights in 80% of venture transactions**, indicative of an increased desire for control and oversight. This put a strain on historically "nimble" boards (especially at the early stages) with junior investors being less agreeable to then relinquish seats on subsequent rounds.
- **Less than 40% of equity financings included a top-up** to the option pool – a 7% decrease from 2022 and a direct result of companies being more cost-conscious/cautious of hiring and existing investors being increasingly reluctant to suffer dilution.

We analysed over
350
Venture Financing Deals
IN 2023
totalling
$7.2B+
ACROSS EUROPE

Ranked
#1 PitchBook FY 2023
VC Law Firm in Europe
FOR 8 YEARS IN A ROW

Completing significantly more deals than any other law firm, with a representation of over 25% of the capital raised in Europe, inclusive of regions outside of our four key European markets.

2. Deal volume and size declined.

- A notable drop in later-stage financings affected the average size of rounds.
  - **Company-side venture deals:** average size **declined 14%**, from $14.3M in 2022 to $12.3M in 2023.
  - **Investor-side venture deals:** average size **declined 53%**, from $40.4M in 2022 to $19M in 2023.
- Unsurprisingly, deal volume dropped as the market slowed. Whilst the aggregate value of European venture capital deals dropped 35% to $61.8B, we maintained our eight year streak as the most active venture capital firm (according to *PitchBook*) and increased our market share.

3. Founders embraced alternative financing methods.

- We saw an **unprecedented spike in new entrants to the market** with more and more Seed companies desperate to find an increasingly illusive lead investor to dictate terms. Founders had to adapt to find quicker means of financing as (despite strong company metrics) investor diligence requirements delayed timeframes.
- We saw an **uptick in convertible debt, SAFEs and ASAs** as a result, with convertible financings representing **23%** of rounds in 2023.
- Unfortunately, continued market/valuation uncertainty and increased company demand saw **higher conversion price discounts** being given (between 20-30% in 2023 vs 15-25% in 2022).

4. Secondary transactions increased.

- Investors focused on managing their existing portfolios.
- Over 4% of financing rounds we advised on were stand-alone secondary financing rounds or rounds that included a secondary element involving an existing investor.
- As funds looked to realise liquidity for their LPs, **35% of funds** surveyed in *The State of European Tech* report indicated that they spent time in 2023 **exploring alternative liquidity opportunities** (including secondaries), with 6% spending significant time on this.

5. SaaS and AI were popular among investors whilst FinTech investments declined.

- SaaS & Platforms represented **31%** of financings in 2023 compared to 23% in 2022.
- AI accounted for **33%** of financings in 2023.
- FinTech accounted for **12%** of financings in 2023 falling from 28% in 2022.

Broader Market Trends

Despite a slowdown from the extraordinary market highs of 2021 and 2022, the tech ecosystem continues to show indications of strength and resilience. The unique pool of investors in Europe and beyond has steadily expanded over the past decade, showing that tech and innovation remain engines for economic growth.

Most notably, the diverse pool of investors exclusively focused on Europe has never been deeper. Carbon and energy solutions account for approximately 30% of all capital invested in European tech in 2023, and AI investment has soared globally. Europe's share of global venture capital reached 17% in 2023. The market is meeting opportunity and strengthening its position.

Some of our findings on broader market trends parallel conclusions in *The State of European Tech*, the most comprehensive data-driven analysis of the tech sector in Europe. We are proud to partner with Atomico on the report and grateful to their team for developing this comprehensive industry analysis year in and year out.

We hope Deal Flow 4.0 offers founders, investors and leaders in the tech ecosystem valuable insights based on our holistic review of the deals and financings we have assisted with in 2023. We are grateful for the opportunity to give a voice to the most innovative minds in the tech community, all while driving growth and achieving market-leading results.

Behind the Numbers

Orrick **Analytics**

Our Orrick Analytics & Innovation teams with help from our attorneys, designed and utilised a proprietary tool, the Deal Flow Dashboard, to automate the collection of European deal data. That helped produce real-time, unique and data-driven insights into some of the most diverse and innovative high-growth companies and investors. It also allowed us to compare current market trends against the rich data we have collected over the past four years and beyond.

POWERED BY
Orrick.AI

Orrick.AI represents the firm's cutting-edge leap into integrating artificial intelligence into our legal services. With AI, Orrick is revolutionising the way our teams handle legal documents, predict case outcomes and streamline routine tasks. This tech-forward approach allows us to offer quicker, more accurate legal insights and frees up our lawyers to focus on high-level strategic work. Through automation, advanced analytics and smart contract management, Orrick.AI is setting a new standard for efficiency and client service in the legal industry.

DEAL TERM REVIEW 2023-24
EUROPEAN VENTURE CAPITAL

Contents

KEY INSIGHTS 6-10

1 VENTURE FINANCINGS 11-26

2 SAFEs, ASAs and CONVERTIBLE DEBT 27-28

3 UK FUTURE FUND FINANCINGS 29-30

4 A VIEW FROM ACROSS THE POND 31-32

5 PREDICTIONS FOR 2024 33-35

#TEAMORRICK 36

ABOUT ORRICK 37-41

SECTOR COLOUR KEY USED THROUGHOUT THIS REPORT

- **Blockchain & FinTech** includes BaaS, Blockchain, Crypto, Digital Currency, InsurTech and NFTs.
- **Cyber, Data & Privacy** includes Big Data, Compliance, Cybersecurity, Data Analytics, Data Centres, Data Privacy, IoT and Risk Management.
- **DeepTech** includes AI, AR, Communications, Image Recognition Technology, IT, Machine Learning, QuantumTech, Semiconductors, SpaceTech and VoiceTech.
- **Energy & Infrastructure** includes AgTech, Aviation, CleanTech, Climate Tech, Electric Vehicles, Mobility, Renewable Energy, Sustainability, Telecoms, TransportTech and Utilities.
- **Health** includes Biopharmaceutical, BioTech, HealthTech, Life Sciences and MedTech.
- **Marketplaces** includes E-Commerce, Fashion, Food & Drink, FoodTech, Media, Manufacturing, PetTech and Retail.
- **SaaS & Platforms** includes Cloud-based Solutions, EdTech, Enterprise Software, Gaming, HR, MarTech, Online Hosting Platforms, PropTech, Real Estate and Software.

Deal values all in US$ using GBP/USD fx rate of 1.2752 based on Bank of England FX Rates of 5 January 2024.

DEAL TERM REVIEW 2023-24
KEY INSIGHTS

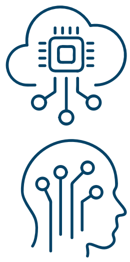
View from the Market

- 2023 marked a reset in investment levels globally. The **recalibration** appeared to signify a healthy correction following two unusually active years, fostering a more balanced and sustainable financial landscape.
- While this presented a 35% fall from the previous year, and just over half of the peak reached in 2021, 2023 emerged as the **third-largest year on record** in terms of total capital invested, with over **$60B** poured into European markets.
- Of the top 3 global regions for venture capital investment – Europe, Asia and North America – Europe is the only one to **exceed 2019 levels in 2023**.[1]
- Europe is sitting on **record levels of dry powder** and producing **more new founders than the U.S.**, but macroeconomic challenges and investor diligence continue to prolong funding timelines.
- Only 11 new unicorns emerged from Europe last year,[2] the fewest in a decade. Market instability led to a **growing number of unicorns being 'dehorned'**, facing valuation drops below a billion dollars. This trend continued from 2022 when 58 unicorns were 'dehorned,' slightly improving to 50 in 2023.[3]
- **Climate Tech** overtook **FinTech** as Europe's most popular sector as energy transition efforts ramp up. **Carbon & energy** captured the largest share of funding (approx. **30%**),[4] marking a threefold increase since 2021. We delve into the Climate Tech sector later in this report.
- At the forefront of public consciousness in 2023 was the development and application of **AI technologies**, which experienced a global surge in funding. AI's share of total investment in Europe soared to a record high of **17%**.[5]
- The market saw a **significant decline in 'mega-rounds'** exceeding $100M+, down 51% both in volume and round count.[6]
- After ballooning in 2021 and 2022, traditional **venture debt funding levels decreased** last year, mirroring overall equity investment volume trends.
- Following subdued exit activity, the **IPO landscape showed signs of life** with notable offerings, including ARM's seismic $55B IPO. **M&A activity showed green shoots**, though deal volume still landed below the peaks of 2020 and 2021.[7]

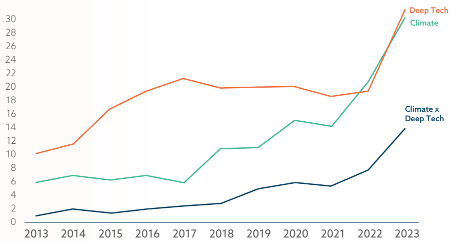
Over
$60B
Investment in European Tech
IN 2023

50
"Dehorned" unicorns in 2023

Climate Tech and DeepTech dethrone FinTech



Climate Tech and DeepTech as % of total VC



Dealroom European Tech Q3 2023 Report

1,2 *Dealroom European Tech Q3 2023 Report*
3-5 *2023 State of European Tech*
6 *Dealroom European Tech in 2023 Blog*
7 *2023 State of European Tech*

DEAL TERM REVIEW 2023-24
KEY INSIGHTS

A View from Orrick

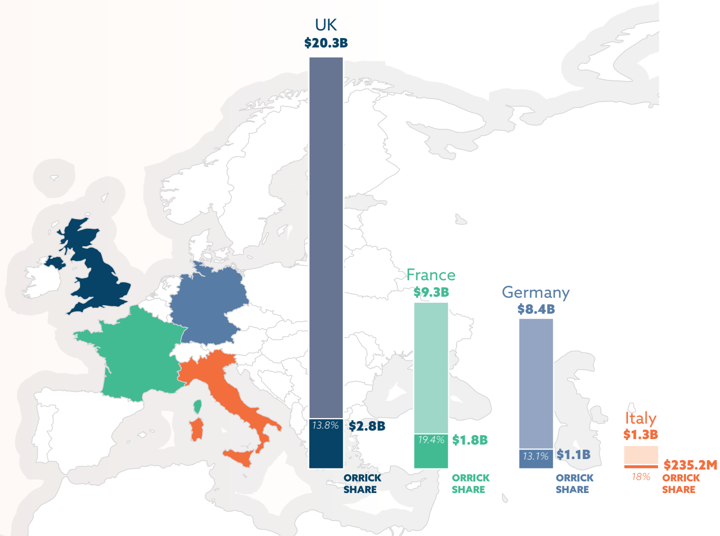
Orrick contributed to raising **more than $7.2B** for European startups in 2023.

We have teams on the ground in the **UK**, **France**, **Germany** – the countries that have raised the most VC investment in Europe over the past decade. We are also present in **Italy** – another of the continent's leading national ecosystems. We look forward to continuing to increase our market share in 2024 and beyond.

Here are some key insights from each of our teams across the region.

Total capital raised in Europe and Orrick's share of deals*

Total Capital Raised in Europe in 2023	**$61.8B**	
Orrick Total Aggregate European Deal Value*	**$7.2B**	(*inclusive of regions outside of the four key markets listed below)



**Europe totals based on 2023 Dealroom data. Orrick results are representative of data received by our European offices located in the UK (London), France (Paris), Germany (Düsseldorf and Munich) and Italy (Milan and Rome).*

A Word from...

The UK

- While 2023 was undoubtedly a changed market from the highs we saw in 2021 and 2022, the **UK remained a key focus** for tech companies at all stages. The ecosystem in London showed resilience and a renewed confidence in perhaps a more sustainable means of investing.
- The number of **first time and follow-on founders continued to grow** as the tech sector matures and established companies produce entrepreneurs taking that leap with their own venture. Whilst sad to see a number of "dehorned" unicorns, it is worth noting that associated headcount reductions in these companies gave CPOs an opportunity to jump on their own innovative ideas.
- Later-stage companies showed **increasing focus on profitability** as difficulties in accessing capital on favorable terms, paired with continued uncertainty in the capital markets, continued.
- London continued to be strong in **FinTech** and related sectors, but we saw an exciting increase in new and developing sectors such as **Energy**, **Health** and AI.
- Whilst **the Seed market blossomed** in the UK with an increasing number of new entrants, so did the need for more innovative methods of closing pre-Seed rounds (through ASAs, SAFEs etc.) as the fundraising timeline lengthened for otherwise high performing companies struggling to find a "lead" to close a proper priced round.

DEAL TERM REVIEW 2023-24
KEY INSIGHTS

France

- 2023 was a year of change for French venture capital financings. For the first time in a decade, the amount raised by companies decreased by a third compared to the previous year, while the number of transactions remained stable.
- The number of French unicorns now stands at 28, with only **one new company gaining this status in 2023**, compared to eight in 2022.
- As a result of the new challenges for startups to raise funds, we saw an increased number of companies **filing for bankruptcy** or receiving **rescue financing** from existing investors at lower valuations with activation of anti-dilution protection in some cases; other companies decided to pursue their development with an industry player or through **buildup transactions**, often completed by the exchange of shares without any cash component.
- Similar to the end of 2022, we saw an **increase in the number of transactions with a liquidation preference multiple higher than 1x**, as well as participating liquidation preferences. A higher number of transactions also included a debt component with a milestone-based conversion valuation.

Over
350
VC DEALS COMPLETED ACROSS EUROPE IN 2023

Completing significantly more deals than any other law firms with a representation of over 25% of the capital raised in Europe, inclusive of regions outside of our four key European markets.

Germany

- Whilst the **overall investment activity remained generally muted** and plateaued in the second half of 2023, the German ecosystem is showing **signs of renewed stability**. Though in the later-stages we still see a lot of structuring to avoid outright down rounds, e.g. floating valuations or warrants. We anticipate a gradual return to pre-pandemic trendlines over the next few quarters.
- Aligned with industry trends, most of the financings we advised on were concentrated in the **DeepTech** (including AI) and **Energy & Infrastructure** sectors, with **SaaS & Platforms** reigning supreme. Our practice experienced a shift towards earlier stage financings (up to and including Series A), with fewer larger rounds (€50M+) compared to the previous year. A significant portion of our larger financing rounds occurred in the **Energy & Infrastructure** and **Health** sectors.
- Several deal terms continued to be more investor-friendly, although, overall, **deal terms remained balanced**. For example, while the 1x non-participating liquidation preference and the broad-based anti-dilution protection remained vastly dominant in early financing rounds, the picture was more mixed in Series A and beyond, with the most pronounced change being a shift towards the narrow-based weighted average anti-dilution protection in the later rounds.
- **Control terms**, particularly protective provisions and information/reporting requirements underwent some tightening. However, these shifts were gradual, and more of a return to long-term trends, rather than a sign of an investor-friendly market.
- There was a strong demand from promising German startups, notably in the **DeepTech** sector (including AI), to set up **U.S./German holding structures** and raise early financing rounds in the U.S.

KEY INSIGHTS

Italy

- **Investments in startups in Italy in 2023 dropped, mirroring a more widespread trend globally.** In 2023, the value of funding rounds in Italy reached $1.3B, down by 32% compared to 2022.
- This reflects the negative trend observed throughout Europe, where inflation, high-interest rates, and threats to geopolitical balances have significantly impacted venture capital funding for startups.
- **Health** and **SaaS & Platforms** companies dominated, each representing 15% of financings in 2023, followed by **Energy & Infrastructure** at 12%, **Marketplaces** at 10%, **DeepTech** at 7% and **Cyber, Data & Privacy** accounting for 3%.
- Series A financing rounds dominated the market (representing 40% of financing rounds), followed by Seed (17%), Series C (13%), and pre-Seed (12%).
- **Greater stability was seen in rounds exceeding €10M, representing 12% of total investments** in 2023 and subject to a much milder decline compared to the overall trend. There were 22 at the end of 2022 and 19 (-13%) in 2023.
- In 2023, on average, about **one-third of active investors (approximately 35%) were international**. This reflects the trends of previous years and showcases significant international networking efforts. This surge in opportunities and expertise in the capital market has triggered an increase in quality, both in terms of the design and execution of startups in Italy. These startups are increasingly being formed by seasoned entrepreneurs, often referred to as "exited" founders, individuals embarking on their second or third venture at the helm of an innovative company following previous successful experiences.
- Another intriguing trend involves the emergence and **proliferation of both Italian and foreign venture studios**, as well as venture capital funds of various sizes that are being established in Italy.

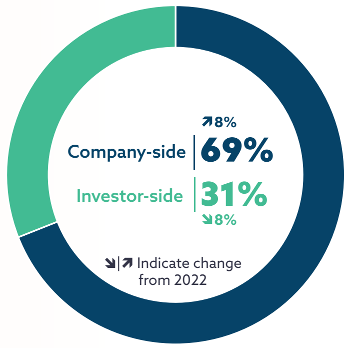
We remain optimistic about what lies ahead – please see pages 33-35 to read our predictions for 2024.

DEAL TERM REVIEW 2023-24
KEY INSIGHTS

Overview of our Deals

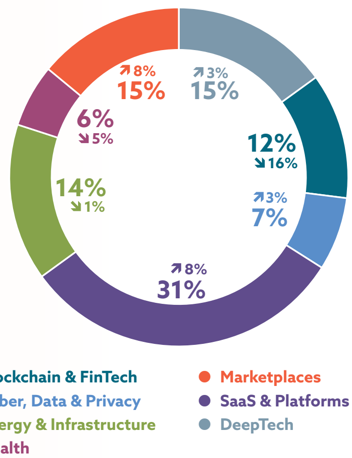
- There has been a **further increase in company-side mandates**, which continue to represent the majority of our client portfolio, following a year-on-year increase over the last three years.
- **Choppy market conditions** have compelled tech companies to **quickly invest in innovation to ensure their survival**. This urgency, together with a significant amount of "internal rounds", could account for the surge in transactions initiated by companies; while the introduction of new, **non-traditional investor entrants** (like CVC's, PE firms and hedge funds, making strategic minority investments) led to some **less orthodox deal terms** being agreed in venture financing transactions.
- The majority of our deals were those in the Energy & Infrastructure, SaaS & Platforms and DeepTech space, which **collectively represented 60% of all transactions**.
- **Deal value and volume fell** significantly as the global macro environment continued to be felt across the market, driving a market re-set.
- Average deal size dropped only by **14%** in our company-side venture deals as early-stage financings continued to prevail in the market, while average deal size dropped by **53%** in our investor-side venture deals.
- And yet, last year European tech proved its robustness and showed signs of stabilisation. Europe's overall funding levels, while experiencing the same pull-back being felt across the globe, is still the third highest on record at over $60B, indicating that the ecosystem remains resilient, and is correcting itself following the unusual highs of 2021 and early 2022.

Total Deals

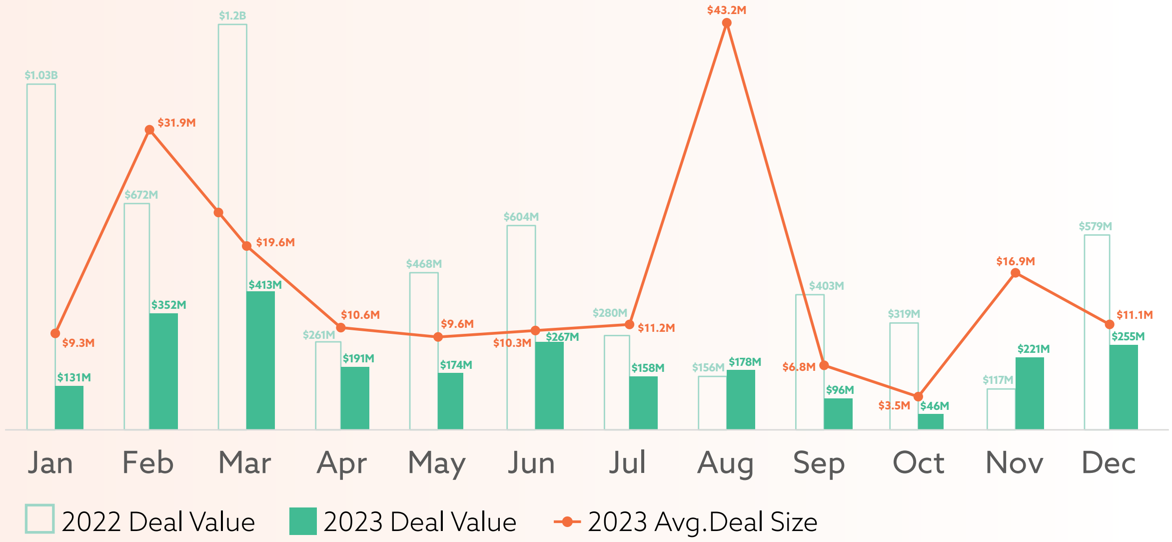


Venture Financings and Convertible Loan Notes (CLNs) combined

Total Sectors



Aggregate Deal Value 2023



Spotlight

Bridging the Gap: Financing Climate Tech's Middle Ground

A key challenge for Climate Tech companies has often been the "missing middle" in the Climate Tech capital stack. There has been dry powder and a willingness for investors to deploy funds at the early and late stages, but less so in between (e.g. Series B/C) at the point in a company's lifecycle where its technology may not have been fully commercialised and it may not be profitable. Positively, we've seen strong signs in the first months of 2024 that **investors are starting to fill this void** and round out the financing picture for Climate Tech companies. Generalist VCs are entering the market with more frequency, infrastructure funds are becoming increasingly prominent and the wider sources of capital (subsidies, grants, debt, project finance, etc.) are adding further layers on top for companies to access. It could be said that the creation of this more fully-formed financing picture for Climate Tech companies has been due to favourable regulatory tailwinds – a huge shift in global policy over the past few years towards sustainability. As we look forward deeper into 2024 though, it's worth bearing in mind that those tailwinds can change. 2024 is said to be the biggest election year in history (with more than half of the world's population going to the polls, according to *The Economist*) and sustainability has become politicised – the outcome of some elections may have a huge impact on the landscape for Climate Tech investment globally.

Watts Next? AI's Energy Dilemma

Another interesting trend is the interaction of AI and Climate Tech. 2023 was truly a breakthrough year for AI, with rapid adoption and innovation. Inevitably, AI will continue to be a strong focus of venture capital investment in 2024, and the hope that generative AI will unlock climate-positive solutions is well-documented. However, AI consumes vastly more power than people have expected, with research indicating that AI data centres could use more electricity than the Netherlands by 2027. This means that, as Sam Altman said, an energy breakthrough is necessary for the future of AI itself. The **possibly entwined futures of Climate Tech and AI** makes for an interesting subplot in the seemingly unstoppable rise of AI.

DeepTech Dominance

Last year was, without a doubt, a significant and historic year for DeepTech companies. The **breakout star was AI**, which dominated headlines and pitch decks and accounted for a significant portion of the DeepTech sector companies we represented. AI companies and companies in other sectors with an AI component represented **33%** of the transactions in our 2023 transaction portfolio.

AI made up 22% of all European mega-rounds exceeding $100M+ last year,[8] surpassing 2022 levels and indicating continued investor appetite to fund the sector. Other DeepTech companies blazed trails of disruption in areas like quantum and spatial computing and space technology.

8 *2023 State of European Tech*

Spotlight

Strength of the Early Stage

While the market experienced an overall slow-down in venture capital financings, **pre-Seed and Seed financings dominated** in 2023, with new entrants in AI (DeepTech) and SaaS & Platforms representing a significant portion of the deals closed last year. We anticipate a significant portion of these early-stage disruptors continuing to grow in 2024, raising Series A and beyond.

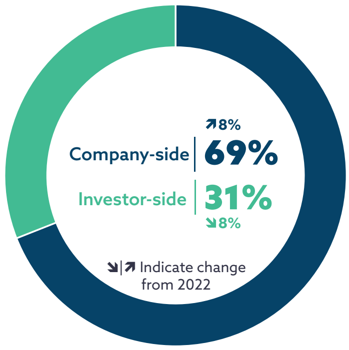
Focus on Bridge Rounds

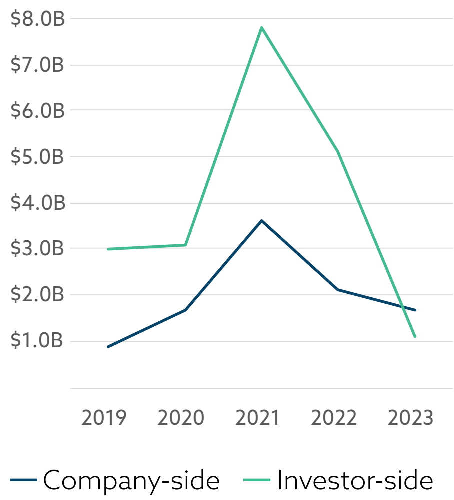
2023 saw a continued uptick in bridge rounds through convertible debt, SAFEs, ASAs and extensions of existing priced rounds. In 2023 we saw the percentage of bridge financings **double** from 2022, having already doubled since the prior year. Although priced rounds (in particular later-stage financings) experienced a slow-down and newcomers to the unicorn stable were rare in 2023, bridge financing rounds took over, particularly in later stages (in Series C and beyond).

VENTURE FINANCINGS

This data looks at our closed European venture financings raised by and on behalf of startups and high-growth companies.

Company vs. Investor





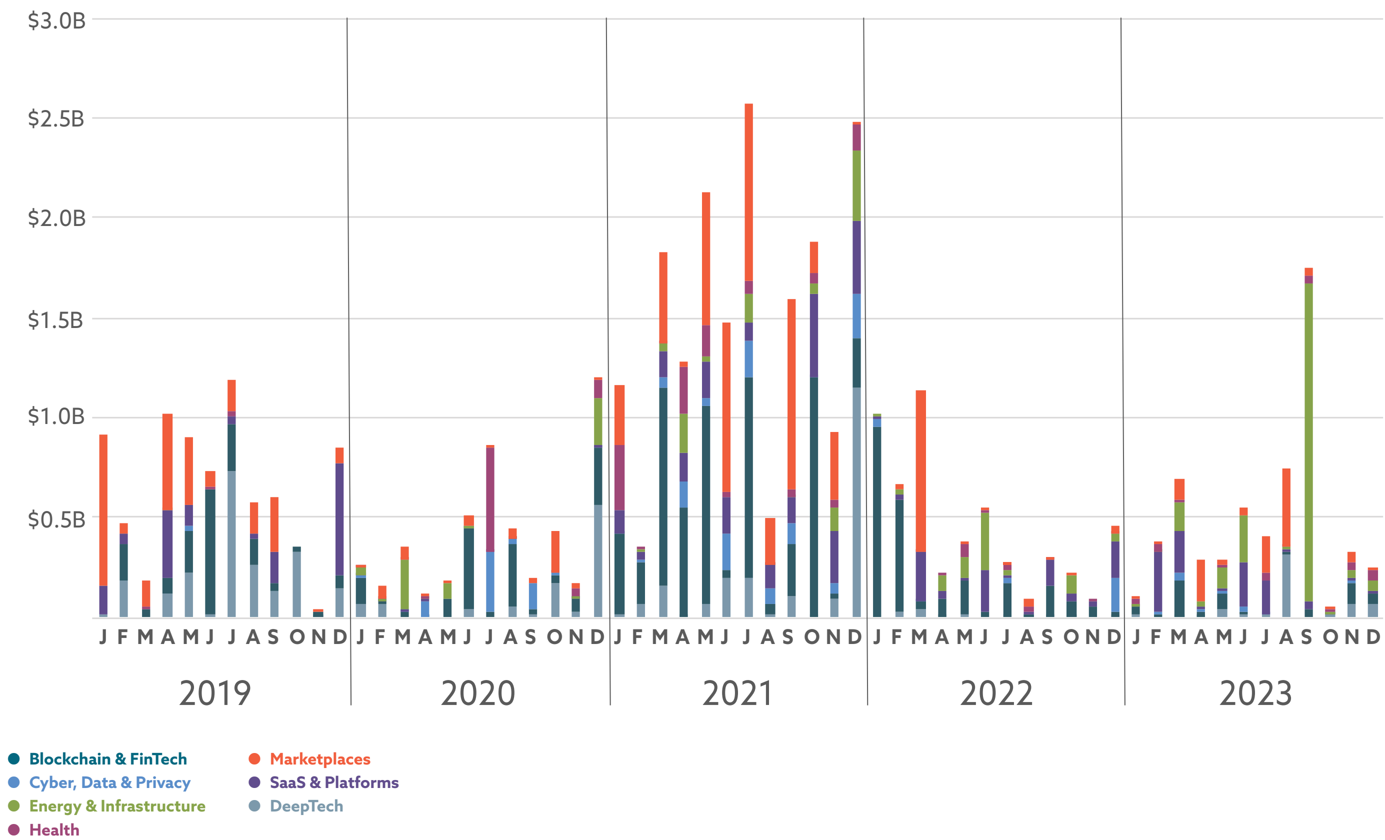
- The rise in our company-side mandates is indicative of:
  - **companies requiring quicker fundraising**, often via bridge rounds that provide financial support to companies in distress;
  - the **increase in the number of pre-Seed and Seed financing rounds** where companies require the support of external counsel, while investors often use in-house counsel;
  - Whereas our portfolio in prior years has included a large proportion of later-stage investor-side mandates in the market, 2023 saw a general decline in later-stage financings, impacting the percentage of investor-side deals in our portfolio;
  - **a focus on convertibles and similar instruments** such as SAFEs and ASAs as founders seek to delay agreeing a valuation in the current market; and
  - as a result of the completion of traditional priced equity rounds taking longer in 2023 as **investors became more selective** with the allocation of new capital and chose to hold on to cash for as long as possible.
- Although we have seen a further drop in investor-side mandates, the reservoir of deployable capital continues to rise, with a **14% increase** in the past year. The amount of dry powder available to European venture capitalists now sits at a **record high of $58B**, rising to **$108B** when also including Growth funds.[9]

Aggregate Deal Size and Volume

- Last year we saw a plateau in deal activity, with 2023 generally not seeing the significant and noticeable spikes we have been used to seeing in prior years, resulting in a reduced deal volume throughout the year. Although we saw a slight uptick in deal volume in June and December, the large spike of deals predicted for Q4 never fully materialized.
- There was a noticeable spike between November and December, as a number of investors sought to deploy dry powder before year-end. We also saw a **675% increase** in aggregate deal value in November compared to the prior month as investors looked forward to 2024.
- Over the last five years, we have seen **Marketplaces** and **FinTech** dominate the venture space in terms of value invested, with AI (**DeepTech**) and **CleanTech** (**Energy & Infrastructure**) now nipping at their heels and in certain circumstances, overtaking our prior strong performers.

9 *2023 State of European Tech.*

Aggregate Deal Value: Five-Year Look Back



* *Representative weighting of transactions—not reflective of actual number of transactions completed.*

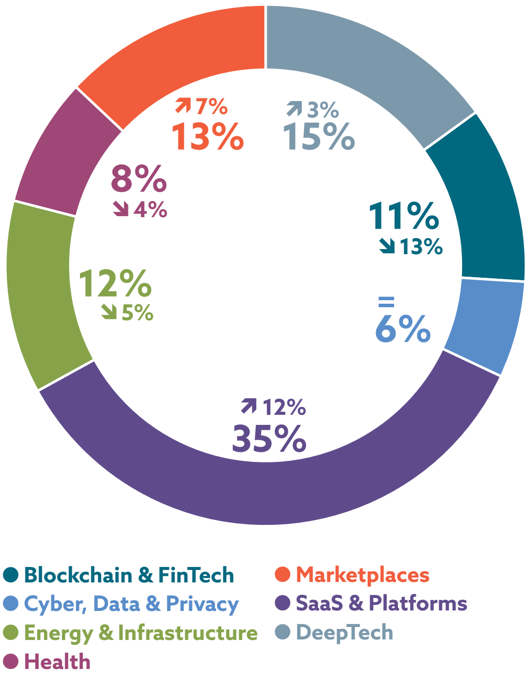
Sectors

SaaS & Platforms: The largest share of our deals (**35%**), **SaaS** has steadily become the most prominent investment sector in venture capital since 2021, as the **SaaS** business model's predictability and universal metrics provided easier forecasting for investors in a turbulent macro-economic climate.

Energy & Infrastructure: Representing a substantial part of our portfolio in 2023, **Energy & Infrastructure** (within which **Climate Tech** was a dominant component) accounted for **12%** of the financing rounds we supported in 2023, reflecting a broader European market focus on this sector, which saw the capital invested in it triple since 2021.[10] We delve deeper into the Climate Tech sector earlier in this report.

Blockchain & FinTech: Following continued growth since 2020, the largest slow-down in investment, **down 13% in market share** from 2022, was seen in **Blockchain & FinTech**. This is reflective of the wider market, which has recorded a fall in capital invested in this sector as other sectors such as AI (**DeepTech**) and Climate Tech (**Energy**) outstripped **FinTech** (**Blockchain & FinTech**) in European markets. **FinTechs** were hit by rising inflation, reduced investment budgets and sparser startup funding.

DeepTech: With AI leading the charge, **DeepTech** sector investments represented **15%** of our deal portfolio in 2023. AI specifically represented **33%** of our portfolio, with AI companies dominating the **DeepTech** sector and representing a key component in our portfolio companies across other sectors.

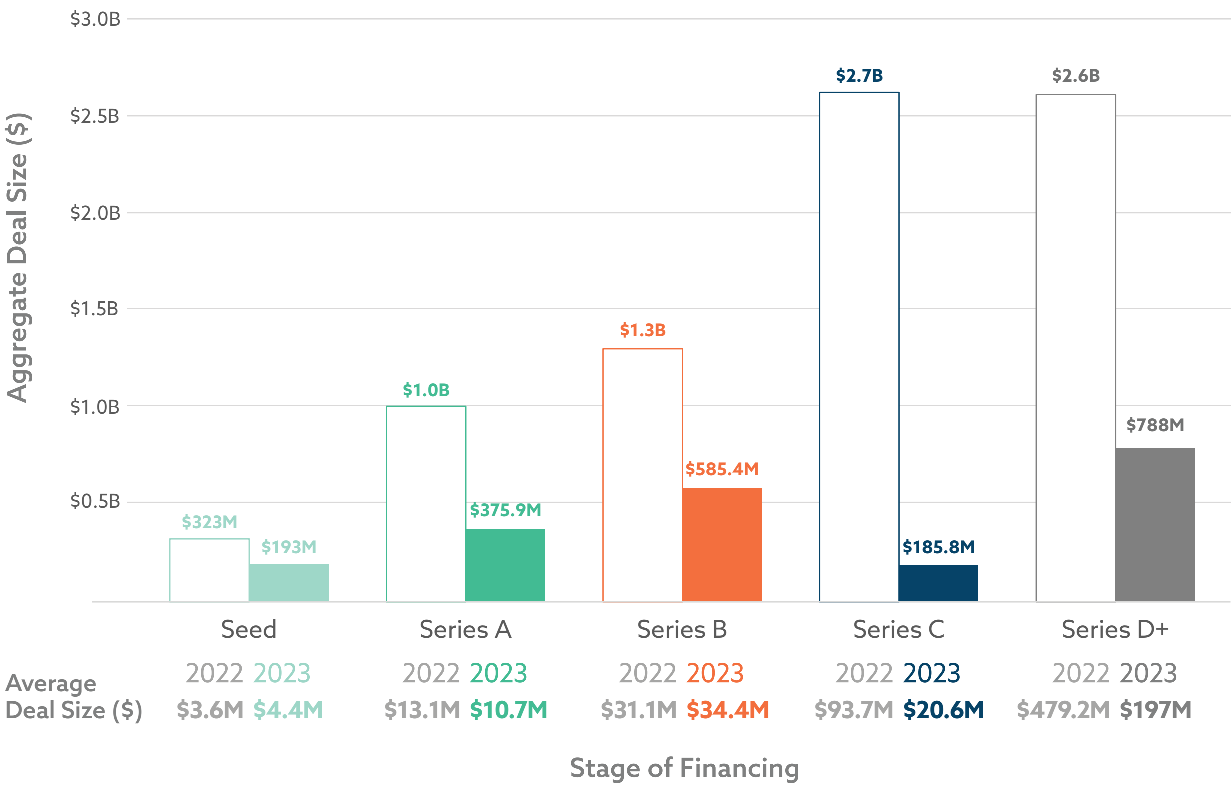


Venture financings only (excludes convertible financings)

10 *2023 State of European Tech.*

Rounds by Aggregate Deal Value

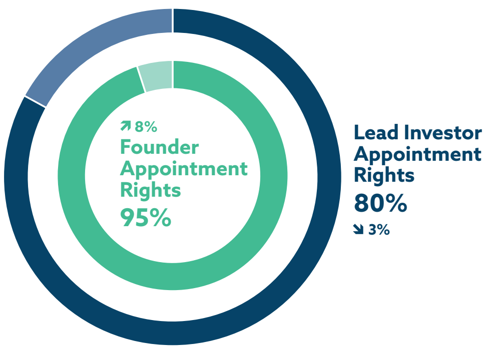
- At each stage, we have seen a **reduction in aggregate deal value**, with the most dramatic fall in later-stage deals.
- Even at the early-stage (pre-Seed and Series Seed), aggregate deal value dropped by **40%** despite investors in the early stage ecosystem remaining the most active throughout 2023. We suspect this is due to a high number of extensions or tranches in lower amounts forming part of a broader transaction.
- While aggregate deal value experienced a notable drop, the average deal size at each stage remained relatively steady, with an average deal size decrease between **15% and 20%** at pre-Seed/Series Seed and Series A, and a **10% increase** in average deal size at Series B.



1 DEAL TERM REVIEW 2023-24
VENTURE FINANCINGS

This section looks at the specific deal terms across venture financings, including rights, preferences and protections for companies, founders and investors.

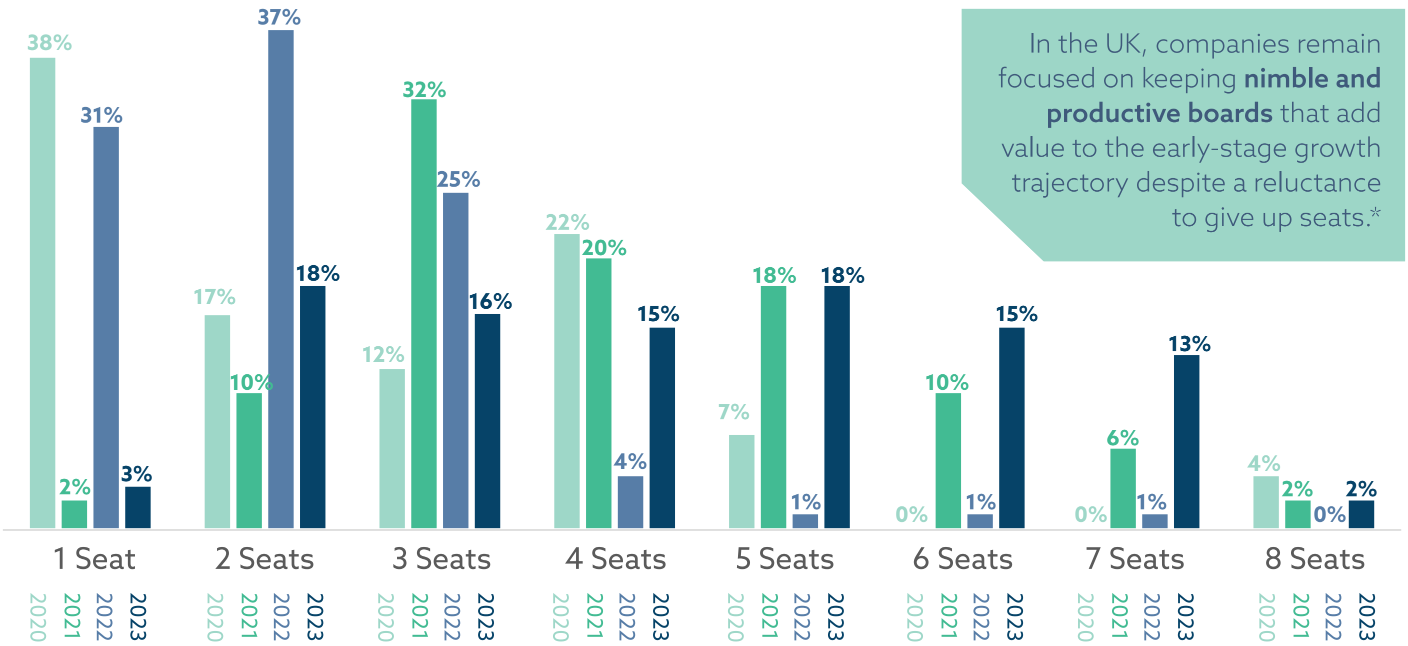
Board Rights



% of deals including Founder and/or Lead Investor board appointment rights.

- In 2023, we saw founders being able to appoint (collectively) two directors on average, which was the same as 2022, suggesting that **companies still hugely value and lean on founder input**.
- Investors continued to take up board observer seats as part of financing rounds, with **61% of all deals including board observer rights** for investors. This is reflective of investors wanting to have more oversight on the day-to-day management of their portfolio companies and reflective of investors resisting their removal of board presence in later rounds.
- In **54%** of deals, lead investors had **both a board appointment right and an observer right**.
- On the whole, investors kept their board protections for longer despite new money from external sources.

Number of Board Seats



In the UK, companies remain focused on keeping **nimble and productive boards** that add value to the early-stage growth trajectory despite a reluctance to give up seats.*

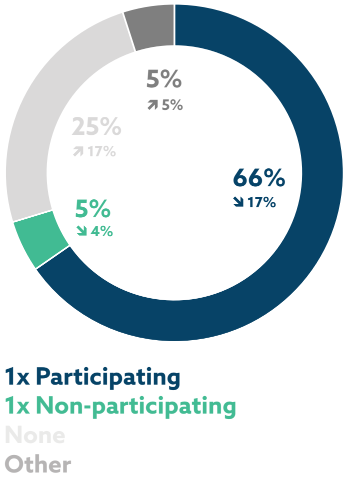
** Unlike UK Boards, in Continental Europe the concept of a Board tends to refer to an advisory (purely supervisory) body, which tends to be bigger, usually 3-5 voting members up until Series B and potentially even bigger beyond with the founders often losing the majority on the advisory board around that time as well. In the UK, advisory boards are unusual, so references to the "Board" are to a governing (decision-making) Board, which Founders are keen to keep nimble.*

Preferences, Protections and Rights

Liquidation Preferences

- We are still seeing the traditional **1x non-participating liquidation preference** as the norm, however we saw an increase in the number of deals with multiples of up to 2x non-participating liquidation preference (representing **4%**) and a general increase in deviations from the 1x participating or 1x non-participating liquidation preference to other constructs and multiples.
- Of the transactions that did have a liquidation preference, **66%** had a **1x non-participating preference**, with **5%** of transactions including a participating liquidation preference (in most cases including a **"burn-off"** once certain thresholds had been met).

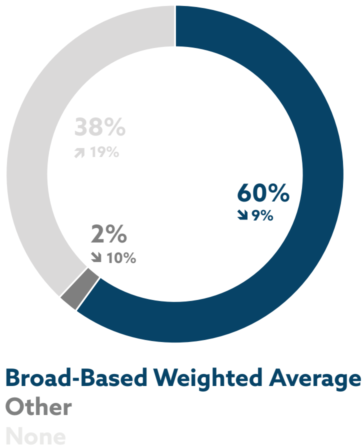
Liquidation Preferences



Anti-Dilution Price Protection

- We are seeing a **decline in the inclusion of broad-based weighted average anti-dilution protection** in our transactions generally, reflective of the weighting towards earlier-stage/pre-Seed financings this year where anti-dilution protection is not as heavily prevalent, while anti-dilution protection remained in force for longer in later-stage companies at Series B and Series C.
- We have seen **investors play with full ratchet anti-dilution protection** and **creative and bespoke combinations of anti-dilution protection mechanisms** subject to certain thresholds. These have been coupled with the introduction and retention of most favoured nation/pull up clauses (a provision to give earlier investors more favourable rights if granted to later investors).
- Approximately **60%** of transactions which included any ani-dilution protection this year, still used the **traditional broad-based weighted average**. The majority of deals that did not feature anti-dilution protection were at the early/Seed stage, which saw a **19%** decrease in the inclusion of any anti-dilution protection.

Anti-Dilution Protection

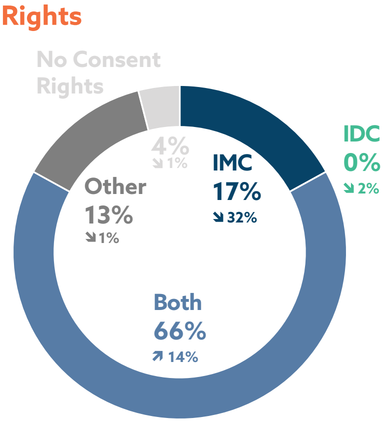


Investor Protections

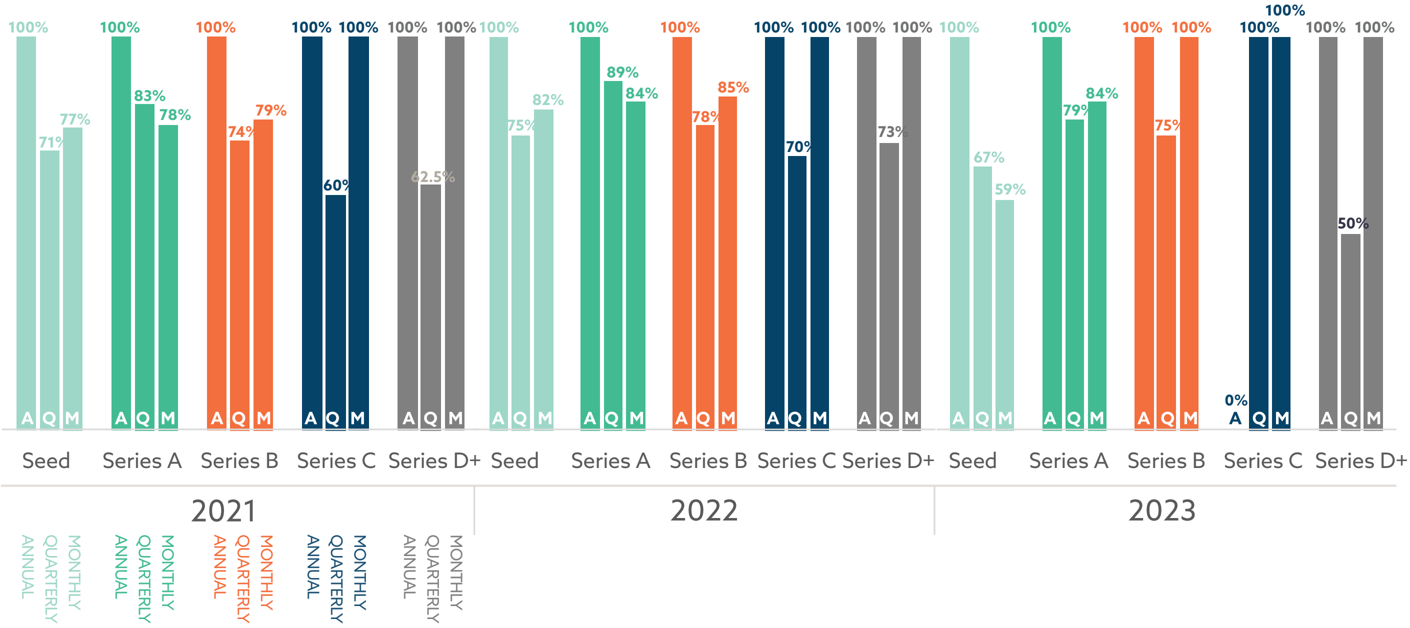
- The number of deals between Series Seed – Series C which included at least one board observer seat increased by **14%** to **98%**, with the lead investor holding both a board seat and the right to appoint a board observer in **54%** of transactions.

Rights

- Overall, **95%** of deals included **consent rights**: investor majority consent (IMC) only (17%)/investor director consent (IDC) only (0%)/ both (66%)/other (13%)/no consent rights (4%). Increasingly, later-stage deals transitioned to a blended IMC regime, avoiding stacked or tiered consents.
- Similarly, we saw a **shift in later-stages** to having a **simple majority threshold (50% plus one) for drag-along**, *i.e.*, not requiring "stacked consents" from junior preference classes, with an **even greater** number of deals at all stages (and specifically later stages) including a drag-along threshold greater than 50%.
- The vast majority of our deals have **drag-along rights**, with founder veto prevalent in earlier stages and continuing well into the later stages. Compared to 2022, in 2023 we saw **an increase in the number of earlier-stage deals which included a founder veto**.



Information Rights
% of total deals in each round



- All deals include Information Rights (delivery of information and preparation of reports) on an annual basis. In addition, the majority of deals also feature Information Rights on a quarterly and monthly basis.

ESG

- We have seen a meaningful percentage of transactions at each stage now incorporate **ESG provisions**, with the highest proportion of deals being at Series B and above. This is not surprising given the **growing trend among European institutional investors to track ESG metrics** within their portfolio companies, which is quickly becoming a requirement of respected funds or a regulatory requirement in some cases.
- This is further impacted by the increase in fundraising in the Climate Tech (**Energy**) sector, where ESG-focused/conscious funds are more likely to be investing.

Option Pool

- In our 2023 deals, we saw less than **40% of equity financings** include a **top-up to the option pool**. This is consistent with the market trend of companies being more cautious of hiring and investors being more reluctant to endure greater dilution in difficult times, with the top-up to the option pool being included in the pre-money (therefore avoiding dilution to incoming investors) in **87%** of those transactions which included an option pool top-up.
- In 2021, we saw **unallocated option pools** being slightly higher (>10%) as companies were more bullish with their hiring agendas. In 2022 and continued in 2023, we saw the unallocated option pool percentages drop to 5-10% which is more reflective of pre-2021 market conditions.
- We saw the inclusion of an option pool top-up at later stages (Series B and beyond) drop significantly as compared to 2022, as founders took a more frugal approach and pulled focus away from team growth.

Warranties

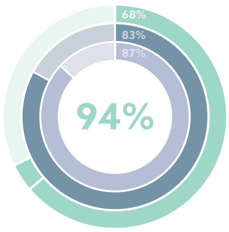
- In the UK, although we saw the market move away from **founder-backed warranties** in 2021, in 2022 and continued into 2023, we have seen **investors start to shift back** to requiring founders to stand behind the warranties on investment rounds (with **39%** of transactions including founder-backed warranties) on the understanding that they fully engage with the disclosure process and provide investors with the information they need to assess their investment. The rationale here is largely flawed despite the introduction of the updated BVCA model forms which feature company-only warranties (tailored for proper disclosure) and is especially prevalent at Series A (**52%**), with this dropping off in later stages.
- In Germany, this observation held true only for the later-stage financings while most investors insisted on founder-backed warranties in the early rounds.

1 DEAL TERM REVIEW 2023-24
VENTURE FINANCINGS

Three-Year Look Back

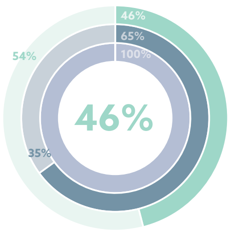
Seed

LIQUIDATION PREFERENCES



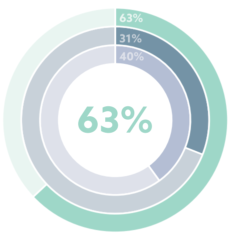
32.14% did not have a liquidation preference, of those that did have a preference, **6%** **1**x participating preference, and **94%** **1**x non-participating

ANTI-DILUTION PROTECTIONS



54% had no AD protection, **46%** broad-based AD protection

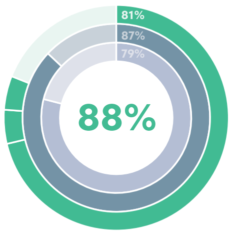
DRAG-ALONG RIGHTS



63% of deals where the drag-along threshold includes a founder veto

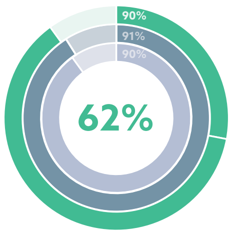
Series A

LIQUIDATION PREFERENCES



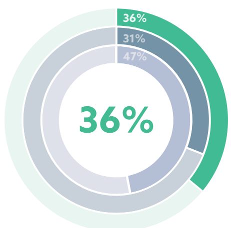
19% did not have a liquidation preference, of those that did have a preference, **88%** **1**x non-participating, **6%** with a more than **1**x non-participating, and **6%** with a **1**x participating.

ANTI-DILUTION PROTECTIONS



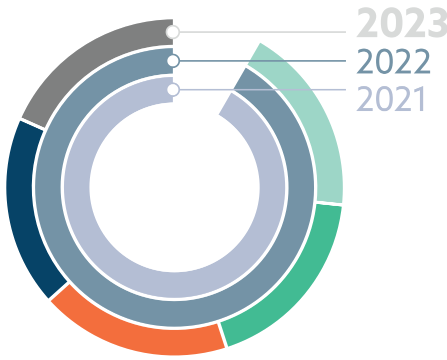
28% had no AD protection, **62%** broad-based AD protection, and **10%** included full ratchet or other AD

DRAG-ALONG RIGHTS



36% of deals where the drag-along threshold includes a founder veto

Key

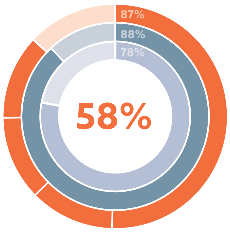


1 DEAL TERM REVIEW 2023-24
VENTURE FINANCINGS

Three-Year Look Back

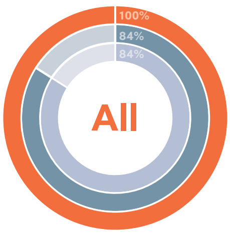
Series B

LIQUIDATION PREFERENCES



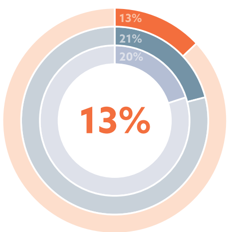
13% did not have a liquidation preference, of those that did have a preference, **58%** **1**x non-participating, **14%** with a more than **1**x non-participating, **14%** **1**x participating and **14%** with a more than **1**x participating

ANTI-DILUTION PROTECTIONS



All Series B deals included broad-based weighted average AD

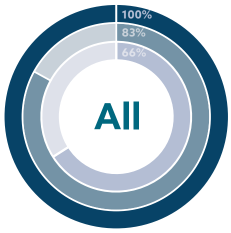
DRAG-ALONG RIGHTS



13% of deals where the drag-along threshold includes a founder veto

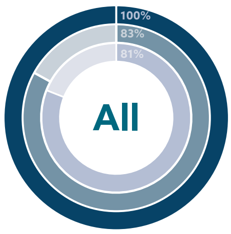
Series C

LIQUIDATION PREFERENCES



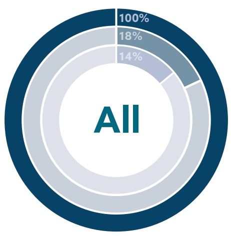
100% of deals had a liquidation preference, with all such deals included a **1**x non-participating preference

ANTI-DILUTION PROTECTIONS



All Series C deals included broad-based weighted average AD

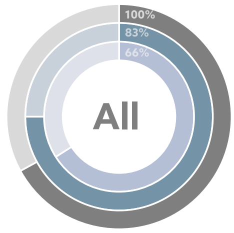
DRAG-ALONG RIGHTS



All deals which included a drag-along had a threshold which includes a founder veto

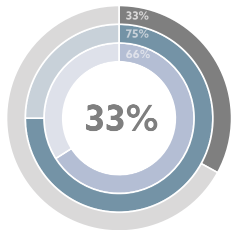
Series D and Beyond

LIQUIDATION PREFERENCES



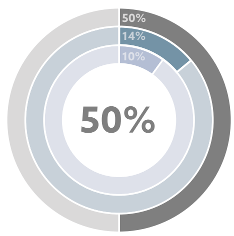
33% did not have a liquidation preference, of those that did have a preference, all included a **1**x non-participating preference

ANTI-DILUTION PROTECTIONS



67% had no AD protection, **33%** broad-based AD protection

DRAG-ALONG RIGHTS



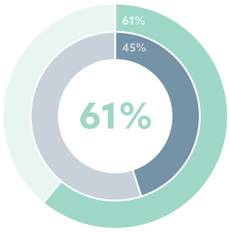
50% of deals where the drag-along threshold includes a founder veto

1 DEAL TERM REVIEW 2023-24
VENTURE FINANCINGS

Two-Year Look Back

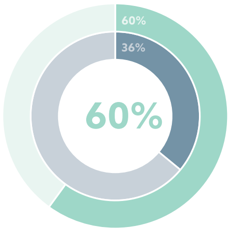
Seed

BOARD OF DIRECTORS



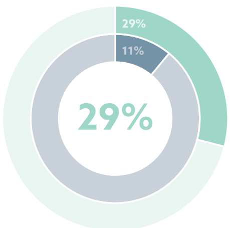
Ranged from **1 to 7** seats. Over **61%** of Seed deals had **4 or 5** Board members

OBSERVER RIGHTS



60% had a lead investor observer right, such right **almost always** sitting alongside a board appointment right, with all transactions including between **1 and 2** observers

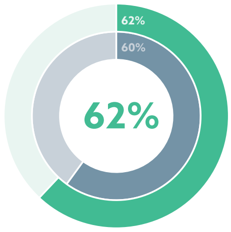
ESG



29% of deals have ESG undertakings

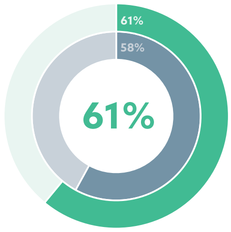
Series A

BOARD OF DIRECTORS



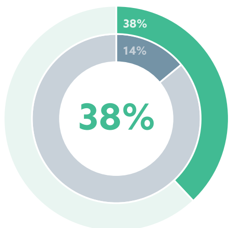
Ranged from **2 to 8** seats. Over **62%** of Series A deals had **4 or 6** Board members

OBSERVER RIGHTS



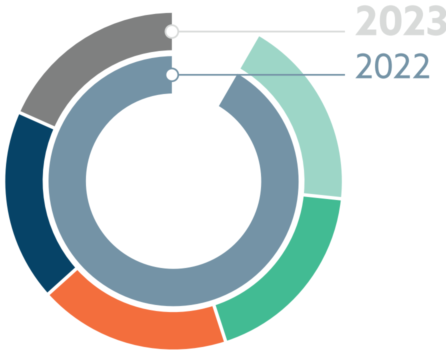
61% had a lead investors observer right, such right **always** sitting alongside a board appointment right, with all transactions including between **1 and 5** observers

ESG



38% of deals have ESG undertakings

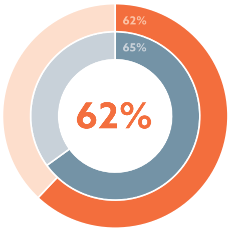
Key



Two-Year Look Back

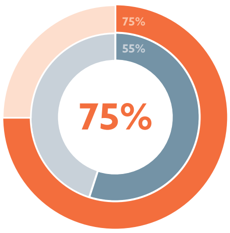
Series B

BOARD OF DIRECTORS



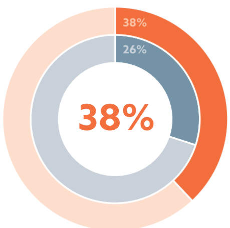
Ranged from **4 to 7** seats. Over **62%** of Series B deals had **6 or more** Board members

OBSERVER RIGHTS



75% had a lead investors observer right, such right **always** sitting alongside a board appointment right, with all transactions including between **2 and 3** observers

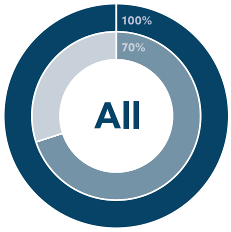
ESG



38% of deals have ESG undertakings

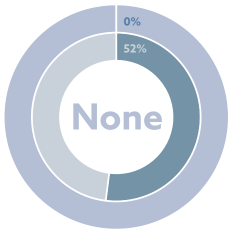
Series C

BOARD OF DIRECTORS



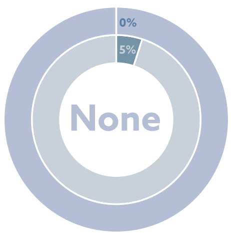
100% of Series C deals had boards comprising of **6 or more** Board members

OBSERVER RIGHTS



None of the Series C deals included observer appointment rights

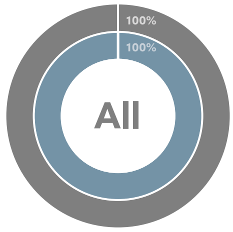
ESG



None of the Series C deals included ESG provisions

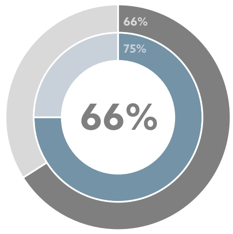
Series D and Beyond

BOARD OF DIRECTORS



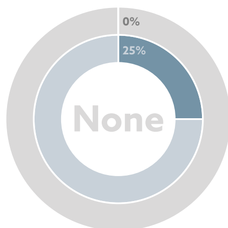
100% of Series D+ deals had on average **7** Board members

OBSERVER RIGHTS



66% had a lead investors observer right, such right **always** sitting alongside a board appointment right, with all transactions including between **3 and 4** observers

ESG



None of the Series D deals included ESG provisions

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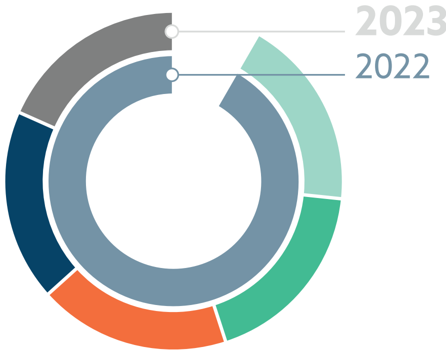
DEAL TERM REVIEW 2023-24
VENTURE FINANCINGS

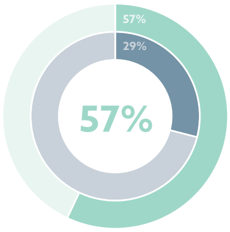
Two-Year Look Back

Key



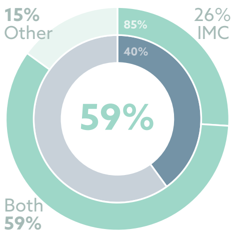
Seed

OPTION POOL



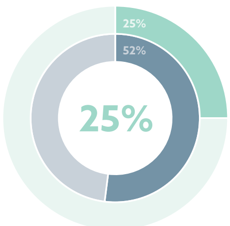
Pre-Seed/Seed: **57%** of these deals had a top-up to the option-pool as part of the transaction

CONSENT RIGHTS



IMC (26%)
both (59%)
other (15%)

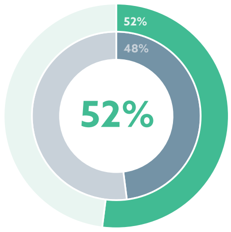
WARRANTIES



25% of deals founders stood behind the warranties

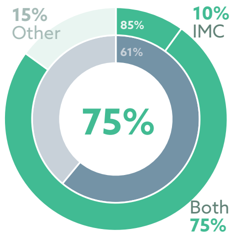
Series A

OPTION POOL



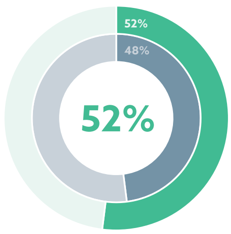
52% of these deals had a top-up to the option-pool as part of the transaction

CONSENT RIGHTS



IMC (10%)
both (75%)
other (15%)

WARRANTIES



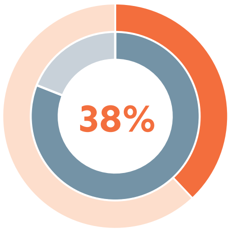
52% of deals founders stood behind the warranties

1 DEAL TERM REVIEW 2023-24
VENTURE FINANCINGS

Two-Year Look Back

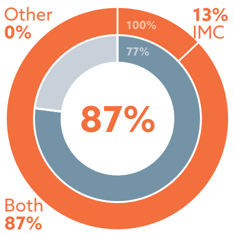
Series B

OPTION POOL



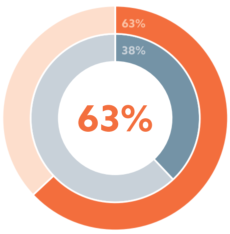
38% of these deals had a top-up to the option-pool as part of the transaction

CONSENT RIGHTS



IMC (13%)
both (87%)
other (0%)

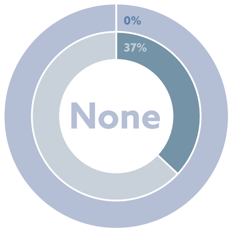
WARRANTIES



63% of deals founders stood behind the warranties

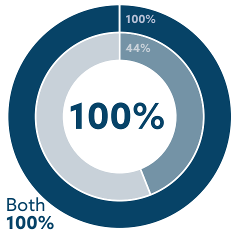
Series C

OPTION POOL



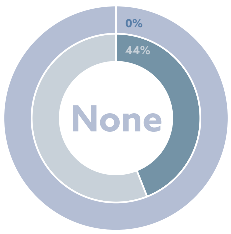
None of the Series C deals included an option pool top-up

CONSENT RIGHTS



IMC (0%)
both (100%)
other (0%)

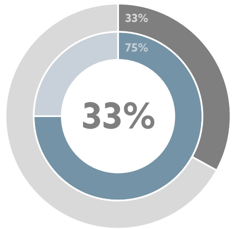
WARRANTIES



Founders did not stand behind the warranties in any of the Series C deals

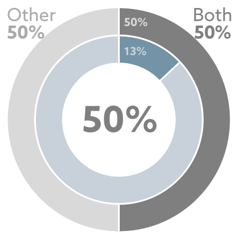
Series D and Beyond

OPTION POOL



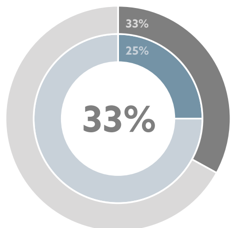
33% of these deals had a top-up to the option-pool as part of the transaction

CONSENT RIGHTS



both (50%)
other (50%)
IMC (0%)

WARRANTIES



33% of deals founders stood behind the warranties

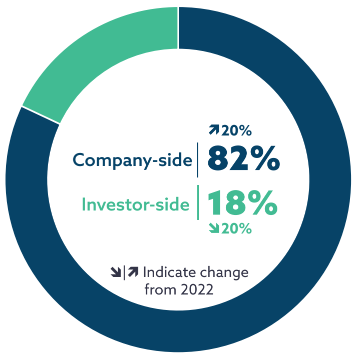
2 DEAL TERM REVIEW 2023-24
SAFEs, ASAs and CONVERTIBLE DEBT

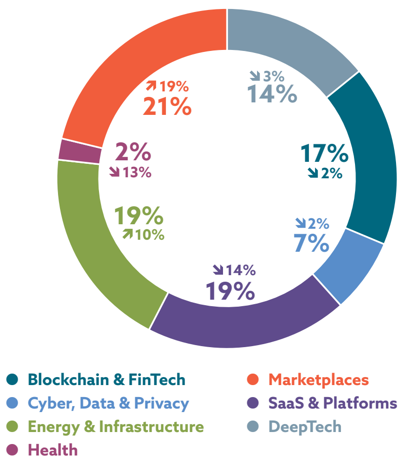
This data looks at our closed 2023 convertible financing rounds undertaken by startups and high-growth companies. For the purposes of this section, we have grouped data relating to simple agreements for future equity (SAFEs), advance subscription agreements (ASAs) and conventional convertible loan notes (CLNs).

Convertible securities such as SAFEs, ASAs and CLNs are increasingly used as funding instruments, as they can provide companies with short-term capital that can be converted into equity based on the company's future valuation. The year 2023 saw a further increase in convertible debt financings from the already high numbers in 2022, with such financing primarily being led by existing investors, as founders sought to avoid priced financing rounds in the hope that uncertainties and downward pressure on valuations might subside.

Aggregate Number of Convertible Financing Deals

- In 2022, we saw a **notable increase in the number of convertible financings** from 2021. While convertible financings in 2022 represented **17%** of the financing rounds in our portfolio, this percentage increased further (to **22.7%**) in 2023. This was due, in part, to the continued difficulty in establishing valuations for private companies in a changing economic environment, the reluctance of VCs to deploy capital in financing new ventures (rather than existing portfolio companies), and the fact that convertible financings are **quicker and cheaper to execute** as compared to priced rounds, resulting in **faster access to capital for companies in a time of need**.
- In the continued turbulent market conditions, founders have stayed reluctant to agree to lower valuations for their businesses. As convertible financings bypass the need for fixed valuations (though parties may still agree on a valuation cap, *i.e.*, valuation considerations cannot be completely ignored), their **"popularity" has grown amongst founders and investors**, who have used this form of financing as a **bridge to their next equity financing round**.
- As the timeframes between priced rounds increased, the size of convertible financing rounds increased even further (**10x** since 2021) to enable founders and startups to withstanding these longer periods of scarce capital.
- The increase in the proportion of convertible financings, coupled with the increase in the number of extension financing rounds by existing investors was a hallmark of the 2023 funding landscape, particularly for later-stage companies where new capital was not as readily available as for early-stage Series Seed companies.

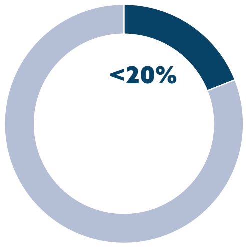




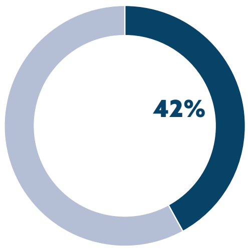
Investor Protections

- Less than **20%** of the convertible financings we saw in 2023 included **pre-emption rights**, with most such pre-emption rights accompanying SAFE financings (as is more traditional in the United States, following the Y Combinator standard forms), giving the investor the right to participate in the company's next equity financing round. This makes sense in the European market as rights such as pre-emption are commonly reserved for equity instruments.
- **42%** of the convertible financings included **consent rights for the investors**. Convertible investors have traditionally not obtained consent rights on their convertible investment as they are not equity shareholders at the time of the investment. So, the fact that an increasing number of the convertible financings we saw included consent rights for investors is a continued indication of the move towards **more investor-friendly terms**. This was coupled with an increase in the number of convertible financings where investors obtained **information rights** (**23%** in 2023).
- **22%** of the convertible financings we saw in 2023 **included either director or observer appointment rights for the investors**, which is a sign that being able to accurately **track and influence company performance and decisions, is at the forefront of investors' minds** during choppier economic waters.
- We continued to see big discounts being given on convertible financings, ranging between **15% – 33%**, with the upper end being a noticeable uplift from the upper end in 2021 (which was closer to 20%) and, with most convertible financings, applying a discount of 20% or higher.
- In 2023, interest rates on CLNs ranged between **7% – 15%**.

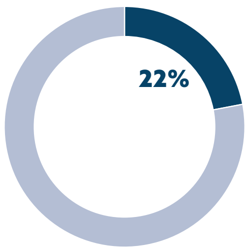
Pre-emption Rights



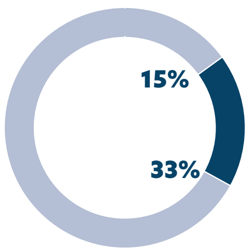
Consent Rights



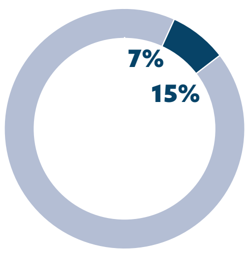
Director/Observer Appointment Rights



Discounts



Interest Rates



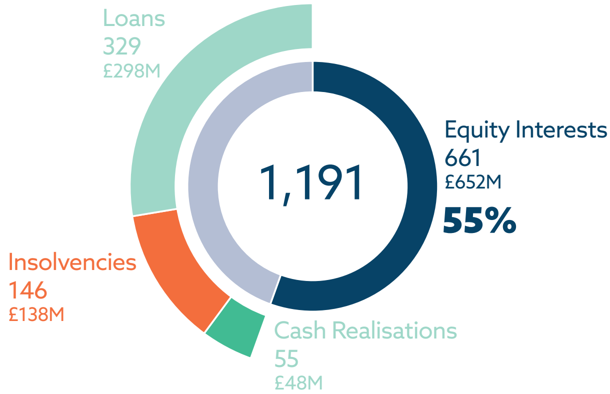
3 DEAL TERM REVIEW 2023-24
UK FUTURE FUND FINANCINGS

This data provides analysis on what happened to our closed 2020 UK Future Fund Convertible Loan agreements. Together with other law firms, we advised HM Treasury on the design and implementation of the Future Fund in response to the COVID-19 pandemic. The scheme has helped to finance more than a thousand startups in the UK.

A Snapshot at 2023

Latest summary of the status of Future Fund portfolio companies is as follows, as at 30 September 2023:[11]

OF THE **1,191** BENEFICIARIES OF THE FUTURE FUND, **661** HAVE CONVERTED, **55** HAVE BEEN SOLD AND **329** REMAIN AS DEBT. **146** HAVE GONE BUST.



Latest Insights

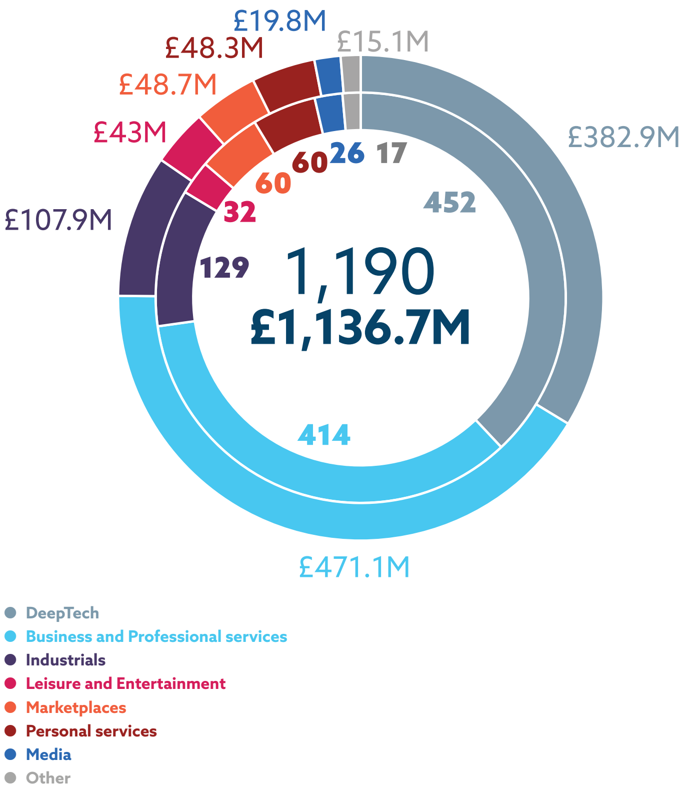
- 2023 was the year of the **"Maturity Date"**. On the third anniversary of the Future Fund convertible loan agreement, the default position is for the principal of the loans to be either (i) **repaid** (together with a 100% redemption premium) or (ii) **converted** (together with all outstanding interest which has accrued) into shares, at the election of the lenders.
- Founders have been considering the economics of (i) **repaying 2x the value of the loan** on its third anniversary, (ii) **raising additional funds** in the interim period to tactically trigger a conversion of the loans, (iii) **seeking an extension** or (iv) **converting the principal and interest** at the company's pre-Future Fund financing valuation.
- See Orrick's top tips for Future Fund Conversions & Redemptions here.
- The Maturity Date, together with a more challenging fundraising market, may go some way to explaining the increase in insolvencies amongst the Future Fund portfolio being 146 versus 83 in January 2023, with many portfolio entities struggling to raise new finance in a challenging market and being forced into insolvency.

11 Source: www.british-business-bank.co.uk

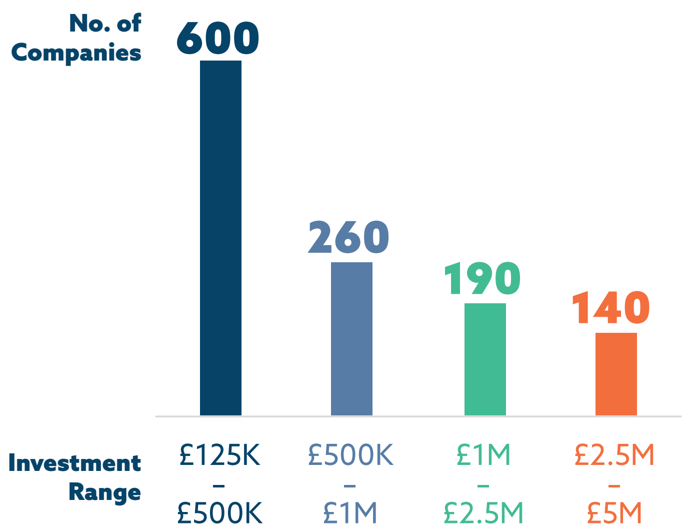
3 DEAL TERM REVIEW 2023-24
UK FUTURE FUND FINANCINGS

- Orrick has worked together with the Future Fund to advise its company-side clients leading up to the Maturity Date.
- We have seen a willingness from the Future Fund to collaborate with its portfolio companies by:
  - **extending the Maturity Date** (albeit with an increase in the discount rate in the region of **between 5% and 10%**); and
  - accepting a **broader scope** of the types of financing which constitute a Qualified/Non-Qualified Financing, **in order to trigger conversion**.
- Going forward, Future Fund portfolio companies who have been granted an extension to their Maturity Date will hope for a more favourable fundraising environment to enable a more desirable conversion or sale event.

Sector and Value Breakdown



Future Fund Breakdown by Size of Convertible Loan Agreement (Future Fund Amount)



4 DEAL TERM REVIEW 2023-24
A VIEW FROM ACROSS THE POND

A Word from the U.S.

- Although **at least 225** reported new U.S.-based unicorn companies surfaced in 2023, this is the lowest number of new unicorns in the U.S. market since 2019.[12] Of note, however, **44.4%** of all new unicorns were AI and machine learning companies (DeepTech), which is a record high for the industry.[13]
- Economic signals in the U.S. in 2023 forecast an increase in IPOs for technologies companies in 2024.
- For the **second consecutive year**, U.S. venture capital **funds took in more cash from LPs** than they returned in the form of distributions. This trend highlights the fact that portfolio companies are not as easily able to find liquidity for investors (in the form of acquisitions or otherwise) and also forecasts continued venture fund fundraising difficulties in 2024 as limited partners will be motivated to first realize returns before allocating new cash to new venture capital funds.[14]

Predictions

- We predict that both U.S. venture capital fund investment into European companies and European startup company expansion into the U.S. market will increase in 2024 relative to 2023, while we do not expect cross-Atlantic investment outpacing levels reached in the peaks of 2021.
- We expect that **U.S. funds will continue to have difficulty competing for deals** with an increasing number of European VCs, which has resulted in several U.S. VCs pulling out of the European market.
- Many new or follow-on U.S. venture capital funds that targeted closings in 2023 with their LPs did not meet their raise targets or closing timelines by year-end, and, as a result, such funds' investment teams will **continue to devote resources to close in 2024**. This will create a downward pressure on financing transactions, although we predict that the **overall number of financing transactions will increase in 2024 relative to 2023**.

12 Q4 2023 *PitchBook* - NVCA Venture Monitor
13 Q4 2023 *PitchBook* - NVCA Venture Monitor
14 4 charts: 2023's VC investor pullback, *PitchBook*, 18 January 2024

4 DEAL TERM REVIEW 2023-24
A VIEW FROM ACROSS THE POND

- We predict that U.S. venture capital funds will increase new investments in new portfolio companies in 2024 relative to 2023 in part due to **anticipated decreases in U.S. interest rates**, although we predict that the trend of increased insider-led down-rounds and recapitalizations in the U.S. market will continue to be prevalent and capture a similar increased share of venture capital deal activity in 2024. In addition, we predict that more mature companies will continue to experience drops in valuations, with growth-stage investment continuing to lag and pushing mature companies to raise in 2024 and take on unfavorable valuations.
- Despite increased political pressure to protect the American public from perceived data privacy threats in AI technologies and an increased likelihood of U.S. regulations impacting the global AI sector, we predict that the number of **investments in AI companies will continue to rise in 2024**, with increased competition among investors to investment opportunities in early-stage AI companies with access to proprietary data sets that can be used to train machine learning algorithms.
- We expect that **corporate venture capital investment in AI companies** will continue to be strong as companies look to capitalize on operational efficiencies.
- The focus on AI technologies will **continue to bring early-stage companies and investors back to the Bay Area** in search of talent and the broader venture capital ecosystem after moves to other metropolitan areas.
- Although we predict **the number of transactions including convertible notes or SAFEs will increase** in 2024 relative to 2023, we predict such investments will continue to come with more strings attached, in the form of more expansive investor rights.
- Despite continued fundraising challenges in the U.S. market, we predict a shift back towards **more standard and founder-friendly economic venture financing terms** (*i.e.*, 1x non-participating liquidation preference).

PREDICTIONS FOR 2024

UK

- We are already starting to see increased pressure on venture funds to deliver returns and performance for their limited partners. We expect this will result in **increased demand for secondaries** throughout all markets, and have seen specific funds raised with the sole focus of European tech secondaries in mind.
- If market conditions persist and availability of capital remains relatively scarce, we expect to see a noted **uptick in M&A activity and consolidation in the market** as companies are unable to raise new capital to finance operations or bridge them to a next round. Opportunistic corporates and private equity funds may find alluring target companies in the UK, which they look to acquire for their technology, customers, employees or a combination of the above.
- Disruptive technologies, such as generative AI and quantum computing, will have a transformative effect on the market in 2024. These new technologies will accelerate the pace of innovation, leading to a raft of **new and exciting companies** and development.
- Despite the fundraising challenges seen in 2023, we expect a greater understanding of the **newly released BVCA model form documents** and a return towards more standardised documentation. We hope the new approach to disclosure is more widely understood and that this can result in a more streamlined funding process for those companies that are keen to raise money in a cost-effective manner.
- We remain optimistic for 2024 and beyond. **2023 "built the funnel"** with a huge increase in new market entrants and the expansion of the pre-Seed and Series Seed stage of the market. It's time for those companies to innovate, grow and develop – and now is the time to do it with a market topping amount of investor dry powder ready to deploy!

5 DEAL TERM REVIEW 2023-24
PREDICTIONS FOR 2024

France

- Investments in late-stage companies are becoming more selective as investors assert the need for their existing portfolio companies to **reduce costs** in order to **attain their breakeven point or become profitable** faster.
- We anticipate a new cycle of financings, which already started in 2023, with investors focusing on **Series Seed** and **Series A financings**.
- The shift from founder-friendly terms towards **more investor-friendly terms** will persist. In late-stage transactions, we **expect to see more liquidation preferences with a multiple higher than 1x**. Valuations may be further challenged based on revenue KPIs and profitability, which will therefore result in an **increased use of valuation adjustment mechanisms** in transactions.
- **Due diligence processes will become longer** and may, in certain instances, trigger valuation adjustments late in the fundraising process.
- The number of transactions including **convertibles or venture debt with equity kickers will increase** as investors will want to limit their risk.

Germany

- We anticipate **heightened deal activity in the DACH region** in 2024. The increased flexibility of central banks to cut interest rates is poised to bolster tech valuations, while a growing demand from LPs for liquidity is expected to **energize the tech M&A pipeline** though, more often than not, at deflated price points.
- Notably in the AI sector (DeepTech), we foresee a surge in acquisitions driven by a competitive race to harness unstructured sets of proprietary data.
- While actual down-rounds were still relatively rare in 2023 and existing investors continued to provide bridge financings, **we may see a rise in down rounds** in the coming quarters. Even for (slight) up- or flat-rounds in the growth market segment, **we anticipate more "structure"**, including a further increase of the >1x liquidation preference and KPI- or milestone-based floating valuations to support (slight) up- or even flat-rounds.
- We expect an **uptick in secondary transactions at significant discounts** as part of later-stage financings, giving incoming investors lower average share prices and more equity upside.
- The shift towards **more investor-friendly terms** with respect to lock-ups, founder vesting, protective provisions and control rights is set to continue, but we do not expect a real paradigm shift.

Italy

- Based on the trends that have taken shape over the past year, **increased investor interest** can be predicted in the following growing sectors:
  - **Quantum Computing:** Quantum technologies and computers will have a transformative impact on society – from revolutionizing medicine and powering clean energy initiatives to a seismic change in the global architecture of cybersecurity. The emergence of quantum computers will drive the demand for new solutions to preserve communication security and secure data storage.
  - **Planet Positive:** Initiatives such as the U.S. climate disclosure standards, European sustainability standards, and global climate disclosure guidelines from the International Sustainability Standards Board will prompt companies to invest in technologies and solutions enabling better management and reporting of environmental impact.
  - **Health:** Breakthroughs in the health sector will continue, fueled by technologies like AI, advanced wearables, and more effective treatments. These developments will radically change the approach to health and well-being, providing healthcare professionals with advanced tools to enhance quality of life and boost patient survival rates.
- Against this evolving backdrop, we expect to see a **rise in R&D investments, capital expenditures, M&A** and **corporate venture capital** in 2024. Italian CEOs will employ transactional leverage to undertake new acquisition operations, raise capital through divestments of non-core assets or listing processes, and expedite the transformation of business models through joint ventures and alliances.

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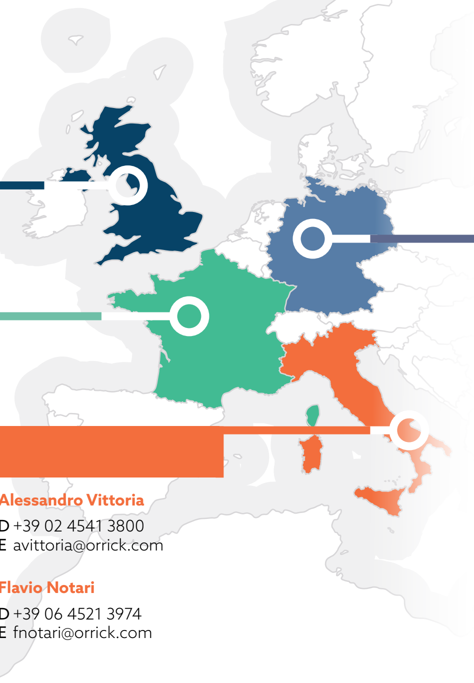

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#1 VENTURE CAPITAL FIRM IN EUROPE
PitchBook
FY 2023 – 8 YEARS IN A ROW

BAND 1 FOR PRIVATE EQUITY: VENTURE CAPITAL INVESTMENT
Chambers
UNITED KINGDOM
2024 EDITION

TIER 1 FOR VENTURE CAPITAL
The LEGAL 500
UNITED KINGDOM
2024 EDITION

BAND 1 FOR PRIVATE EQUITY & VENTURE CAPITAL
GERMANY
JUVE
2023/24

BAND 2 FOR PRIVATE EQUITY – VENTURE CAPITAL
Chambers
FRANCE
2023 EDITION

TIER 2 FOR PRIVATE EQUITY VENTURE/GROWTH CAPITAL
The LEGAL 500
FRANCE
2024 EDITION

STARTUP TEAM OF THE YEAR
ITALY
LEGALCOMMUNITY AWARDS
Forty UNDER 40
LEGALCOMMUNITY FORTY UNDER 40 AWARDS 2022

LAW360
TECHNOLOGY GROUP OF THE YEAR
2023 (x3)

BeBeez PBV Monitor
VENTURE CAPITAL LEGAL TEAM OF THE DECADE, 2013-2023
ITALY

About Orrick

Creators. Visionaries. Underdogs. The Daring.

Nothing inspires us more than helping tech companies develop novel strategies and push boundaries. We're passionate about entrepreneurship and guiding the success of early ventures. Through our extensive client portfolio, deal volume and relationships in the tech ecosystem, we provide commercial and legal insight to companies and investors, from incubation to strategic exit and future growth opportunities. Orrick ranks No. 1 in Europe for venture capital (*Pitchbook*) and has been the leader for each of the past eight years. We counsel venture-backed companies, as well as the most active funds, corporate venture investors and public tech companies worldwide.

Our sector focus. Because our clients need legal solutions informed by commercial insight, we focus on serving the three sectors driving the global economy: technology & innovation, energy & infrastructure and finance. Our advice is informed by working with more than 4,000 high-growth tech companies globally, 13 of the 25 largest public tech companies, and more than 400 investors.

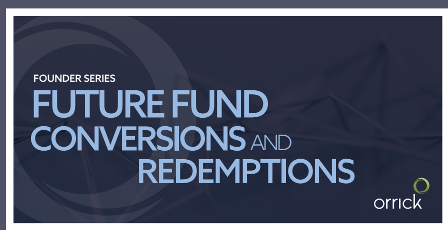
A unique global platform. Based in 27+ markets globally, we possess deep experience across offices in many of the major global technology hubs. We specialise in high-value external growth transactions, flips, mergers and acquisitions, IPOs, direct listings, SPACs and cross-border exits.

A commitment to innovation. We are transforming the delivery of legal services. That's why *Financial Times* has named Orrick among the Top 3 Innovative Law Firms in North America for eight years in a row (2016-2023). Through Orrick Labs, we're developing new legal technologies. Through Orrick Analytics, we're applying AI and other tools to solve clients' problems and save them money. And through creative staffing at our Global Operations & Innovation Center, we're streamlining legal processes for efficiency.

Attracting and retaining top talent. Because our clients value top quality, consistent and diverse teams, we're focused on transforming the BigLaw talent model by being the best firm to work for and the most diverse firm among our peers. We are able to attract and retain top quality teams for each of our clients. For the eighth year in a row, Fortune has named Orrick as one of the "100 Best Companies to Work For" and the top law firm on the list.

UK Founder Series

Orrick's Founder Series offers monthly top tips for UK startups on key considerations at each stage of their lifecycle, from incorporating a company through to possible exit strategies. The Series is written by members of our market-leading London Technology Companies Group (TCG), with contributions from other practice members. Our Band 1 ranked London TCG team closed over 200 growth financings and tech M&A deals totalling $3B in 2023 and has dominated the European venture capital tech market for eight years in a row (*PitchBook*, FY 2023).



The Orrick Legal Ninja Series

With the Orrick Legal Ninja Series (OLNS) we deep dive on legal topics that are particularly relevant for startups and their investors in Germany. This Series is co-authored by a multidisciplinary team of attorneys from our national and international offices.

It is our goal to tap into the rich reservoir of the venture capital and technology law know-how of our international platform and make it available to the exciting German entrepreneurship and innovation scene.

OLNS #1 — Venture Debt for Tech Companies
May 2019

Venture Debt is a potentially attractive complement to equity financings for business start-ups that already have strong investors on board.

This is a highly flexible instrument with very little dilutive effect for founders and existing investors.

OLNS #2 — Convertible Loans for Tech Companies
August 2019

Due to their flexibility and reduced complexity compared to fully-fledged equity financings, convertible loans are an important part of a start-up's financing tool box. In a nutshell: a convertible loan is generally not meant to be repaid, but to be converted into an equity participation in the start-up at a later stage.

OLNS #3 — Employment Law for Tech Companies
January 2023 (this revised edition replaces Dec 2019 issue)

Young technology companies are focused on developing their products and bringing VC investors on board. Every euro in the budget counts, personnel is often limited, and legal advice can be expensive. For these reasons, legal issues are not always top of mind. But trial and error with employment law can quickly become expensive for founders and young companies.

OLNS #4 — Corporate Venture Capital
March 2020

Corporates are under massive pressure to innovate to compete with new disruptive technologies and a successful CVC program offers more than capital – access to company resources and commercial opportunities are key features that justify CVC's prominence. This guide serves to share best practices for corporates and start-ups participating in the CVC ecosystem and also to ask important questions that will shape future direction.

OLNS #5 — Venture Financings in the Wake of the Black Swan
April 2020

In the current environment, all market participants, and especially entrepreneurs, need to be prepared for a softening in venture financing and make plans to weather the storm. In this guide, we share some of our observations on the most recent developments and give practical guidance for fundraising in (historically) uncertain times. We will first provide a brief overview of the current fundraising environment, and then highlight likely changes in deal terms and structural elements of financings that both entrepreneurs and (existing) investors will have to get their heads around.

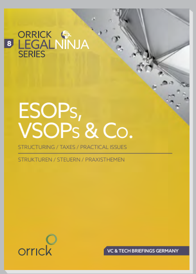
OLNS #6 — Leading Tech Companies Through a Downturn
May 2020

Steering a young technology company through a downturn market is a challenging task but if done effectively, the start-up can be well positioned to benefit once the markets come back. While OLNS#5 focused on raising venture financing during a downturn, in this guide, we want to give a comprehensive overview of the legal aspects of some of the most relevant operational matters that founders may now need to deal with, including monitoring obligations and corresponding liabilities of both managing directors and the advisory board, workforce cost reduction measures, IP/IT and data privacy challenges in a remote working environment, effective contract management and loan restructuring.

The Orrick Legal Ninja Series

OLNS #7 — Flip it Right: Two-Tier U.S. Holding Structures for German Start-ups
January 2021

Operating a German technology company in a two-tier structure with a U.S. holding company can have great advantages, most notably with respect to fundraising in early rounds and increased exit options and valuations. However, getting into a two-tier structure (be it through a "flip" or a set-up from scratch) requires careful planning and execution. This guide shows you what to consider and how to navigate legal and tax pitfalls.



OLNS #8 — ESOPs, VSOPs & Co.: Structuring/Taxes/ Practical Issues
June 2021

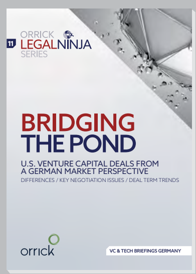
OLNS#8 provides a comprehensive overview of the equity-based and Employee-ownership programs (or in short "ESOPs") play a critical role in attracting and retaining top talent to fledgling young companies. Stock options reward employees for taking the risk of joining a young, unproven business. This risk is offset by the opportunity to participate in the future success of the company. Stock options are one of the main levers that start-ups use to recruit the talent they need; these companies simply can't afford to pay the higher wages of more established businesses. With OLNS#8, we want to help start-ups and investors alike to better understand what employee ownership is, structure them in a way that is congruent with incentives, and implement them cleanly.

OLNS #9 — Venture Capital Deals in Germany: Pitfalls, Key Terms and Success Factors Founders Need to Know
October 2021

Founding and scaling a tech company is a daunting challenge. OLNS#9 summarizes our learnings from working with countless start-ups and scale-ups around the world. We will give hands-on practical advice on how to set up a company, how (not) to compose your cap table, founder team dynamics and equity splits, available financing options, funding process, most important deal terms and much more.

OLNS #10 — University Entrepreneurship & Spin-offs in Germany – Set-up/IP/Financing and Much More
November 2022

German universities are increasingly becoming entrepreneurial hotbeds, but university spin-offs face some unique challenges, some of which could – with the right support systems and policies in place – be considerably less stressful. OLNS#10 helps founders by providing them with an overview of how to get a university-based start-up off the ground. We will discuss founder team composition and equity-splits, the composition of the first cap table, important considerations for the initial legal set-up (founder HoldCos and U.S. holding structures) as well as financing considerations. We will also return again and again to the specifics of IP-based spin-offs, especially when it comes to how a start-up can access the university's IP in an efficient manner.



OLNS#11: Bridging the Pond – U.S. Venture Capital Deals from a German Market Perspective
August 2023

Venture financings and deal terms in the U.S. and in Germany have many similarities but there are also some differences. To help navigate these challenges, we have put together OLNS#11. OLNS#11 is a guide that offers founders and investors with a "German market" background an introduction to U.S. VC deals and helps them understand where U.S. deals differ from a typical German financing. OLNS#11 also augments and builds on OLNS#7 that explains how German founder teams can get into a U.S./German holding structure (the famous flip).

Diversity, Equity & Inclusion

Our goal is to be the most diverse and inclusive firm among our law firm peers – and our results are driven by focused work in three areas:

At Our Firm

- Increasing inclusive hiring through the **Mansfield Rule** to ensure candidate pools are at least 30% diverse, a partnership with **Legal Innovators** to recruit from nontraditional law schools, and **1L split summer programs** with legal departments.
- Expanding our focus on career development and access to opportunities by pairing experienced Black and Latinx associates with senior leader sponsors, developing **bias interrupter programs**, and providing up to 100 hours of **bonus-eligible credit** for associates to work on DEI.
- Reimagining the way we onboard, integrate and train our first-year lawyers through the "**Residency @Orrick**" program.
- Founded and sponsor the **Bay Area Diversity Career Fair** and **Veterans' Legal Career Fair** for roles at Orrick, clients and peer firms.
- Promoting a culture of inclusion, belonging & flexibility through **training**, **support** and **accountability**.

With Our Clients

- Using a **bespoke approach to client team metrics** so partners and clients can compare the diversity of client teams to the pool of diverse lawyers in the practice groups serving the client.
- Driving conversation and benchmarking with clients through our **Inclusion Conversation Series**, featuring leading thinkers on justice, equity and inclusion and our **DEI** and **Women's advisory boards**, which include senior leaders of legal departments and industry experts.
- Connecting diverse talent with clients through Diversity Lab's Focused Five program, where in-house lawyers coach our diverse rising star partners and offering experienced associates a confidential job board that features client opportunities.

In Our Communities

- Committing for four years to the **Orrick Racial Justice Fellowship Program**, allowing experienced Orrick lawyers to work full time, at full pay, at partner organizations. In response to Dobbs, one fellowship will focus on the intersection of race, privacy and reproductive healthcare.
- Supporting community contribution with **partner board positions** at leading professional and impact organizations (LCLD, Legal Momentum, IILP, Legal Outreach and others) and a 98%+ lawyer **participation in pro bono**, including matter and clinic collaborations with clients.

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Mansfield Certified Plus
6 years in a row

FORTUNE 100 BEST COMPANIES TO WORK FOR 8TH YEAR IN A ROW

No.18 on the Best Companies to Work For
Fortune 2023 – 8th year in a row on the list

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Top Firm for Career Agency
Yale Law Women, 2023 – 2 years in a row

EQUALITY 100 HUMAN RIGHTS CAMPAIGN 2023 2024 Leader in LGBTQ+ Workplace Inclusion

Human Rights Campaign
100% score – 17 years in a row

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Seramount, 2023 & 15th time

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2023 — 11th year in a row

LAW360®

Top 10 for Highest Representation of Women in Equity Partnership
Law 360, 2022 — 2nd year in a row

OUR RESULTS TO DATE

Our Lawyers: **55%** diverse, **43%** women	Partnership: **45%** diverse	U.S. Lateral Associates, last 6 years: **73%** diverse
Board & Management Committee: **50%** diverse, **9** women, **5** of color	U.S. Partner Promotions, last 8 years: **57%+** diverse	2023 Summer Associate Class: **86%** diverse

Contact/Sign Up Information

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