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## **Venture Capital Investments – What Every In-House Counsel Should Know!**

An introduction to the world of venture capital and what every in-house counsel should know

**November 25, 2025**

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IBM Japan**



# Anthony Luna

Began career in Silicon Valley/San Francisco focusing focusing on VC and M&A; M&A Corporate Partner at at Jones Day Tokyo before moving to IBM Japan in 2013.

IBM Japan 12 years, General Counsel 7 years, recognized by ALB, Legal 500, In-House Community Community and others in Numerous Team or Individual Awards

Teaches as Adjunct Professor at Keio Law School  
Venture & Start Up Law and AI and the Law

Co-President of Japan In-House Counsel Network;  
Board Member of the Japan Association of Chief



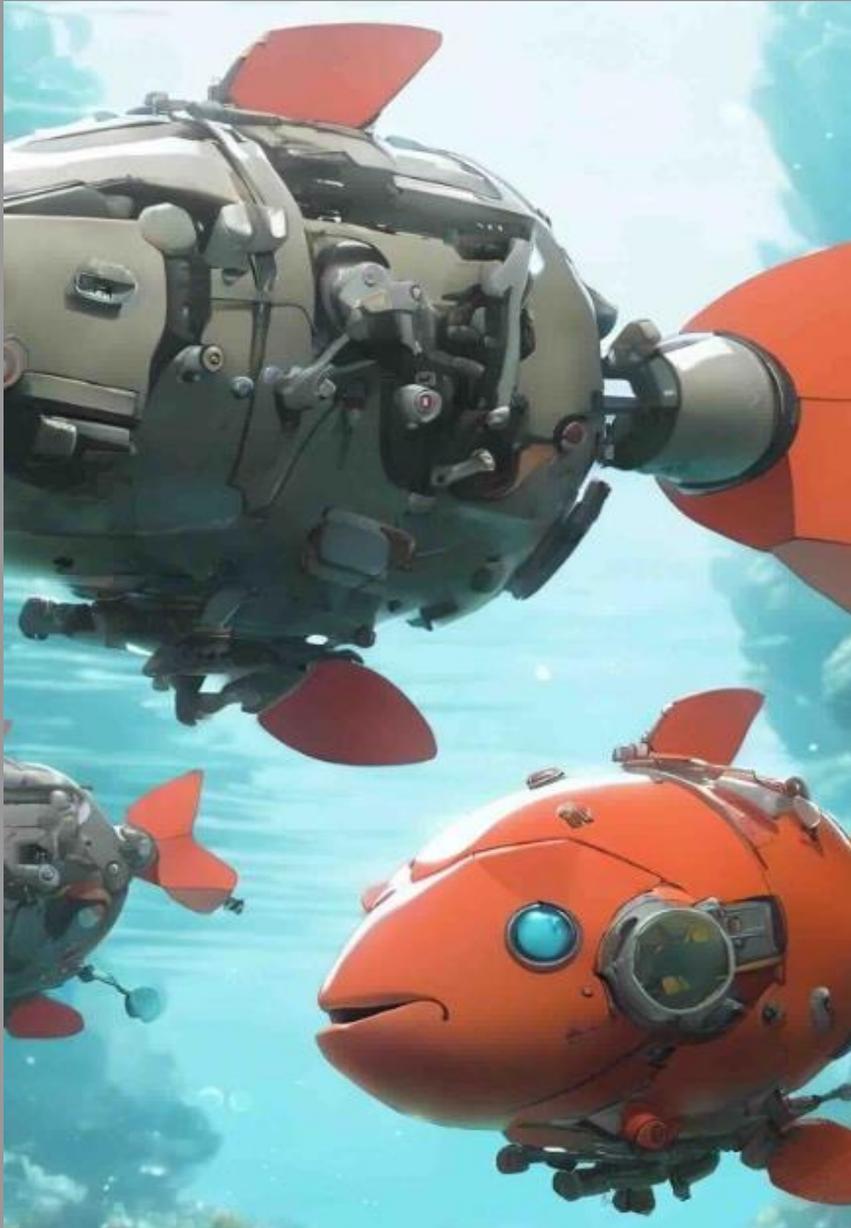
# Eric Marcks

Specializes in venture capital (entrepreneurs, CVCs, and VCs in Japan and internationally) and domestic/cross-border M&A.

Began career in Silicon Valley/San Francisco focusing on VC and M&A; spent 8 years with W&C Tokyo before co-founding southgate in 2016.

Recognized by Chambers, Legal500, IFLR1000, and Best Lawyers; listed in Asia Business Law Journal's A-List: Japan's Top 100 Lawyer

Teaches classes on VC and M&A at Keio Law School

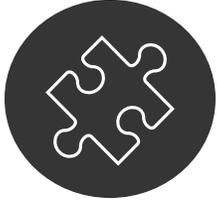


## Sakana AI Raises US \$135 M Series B (Nov 17, 2025) at a US \$2.65 B Valuation

“We plan to deploy the new capital not only for R&D and model development, but also to expand our engineering, sales and distribution teams in Japan.” — David Ha, CEO

Certain Key investors: Mitsubishi UFJ Financial Group , Khosla Ventures, Macquarie Capital, New Enterprise Associates , Lux Capital, In-Q-Tel

# Why Venture is Important



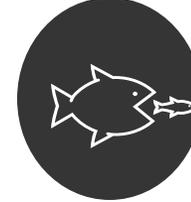
## Connects established companies with innovation

Venture capital provides a pathway for large, mature organizations to access and incorporate the latest technological advancements and disruptive business models developed by startups.



## Enables global integration of technology and business

Venture capital investments facilitate the cross-pollination of ideas, talent, and best practices across international markets, fostering the development of innovative solutions with worldwide applicability.



## Competitive necessity in today's business landscape

Engaging in venture capital activities is critical for companies to stay agile, relevant, and at the forefront of industry trends, allowing them to anticipate and adapt to evolving customer needs and market dynamics.

**Venture capital is a strategic imperative for established companies to remain competitive, innovative, and globally integrated in the modern, technology-driven business environment.**

# Statistics and Trends

## How U.S. chip giant Intel spurned OpenAI and fell behind the times

MAX A. CHERNEY

SAN FRANCISCO

REUTERS

PUBLISHED AUGUST 7, 2024

### Intel CEO resigns after a disastrous tenure

**(CNN)** — Intel Monday announced CEO Pat Gelsinger has resigned after a difficult stint at the company. The once-dominant chipmaker’s stock cratered as it missed the AI boom and was surpassed by most of its rivals.

Intel’s (INTC) stock plunged 61% during Gelsinger’s tenure. The stock rose 3% in early trading on Monday, before dipping more than 1% by midday.

The company announced in August that it would lay off 15% of its staff as part of an effort to slash \$10 billion in costs and “fundamentally change the way we operate,” as Gelsinger said at the time.

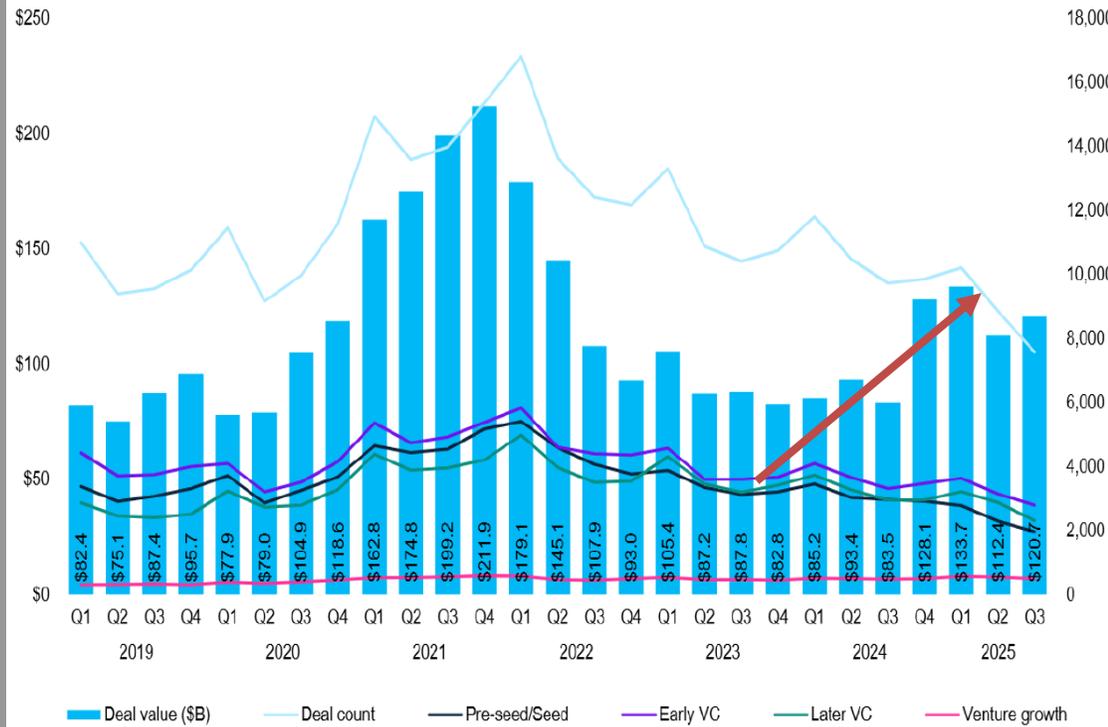
### Risks of Not Engaging in Venture

Highlighting the potential risks and consequences for businesses that do not participate in the venture capital landscape.

# Statistics and Trends

Global venture financing

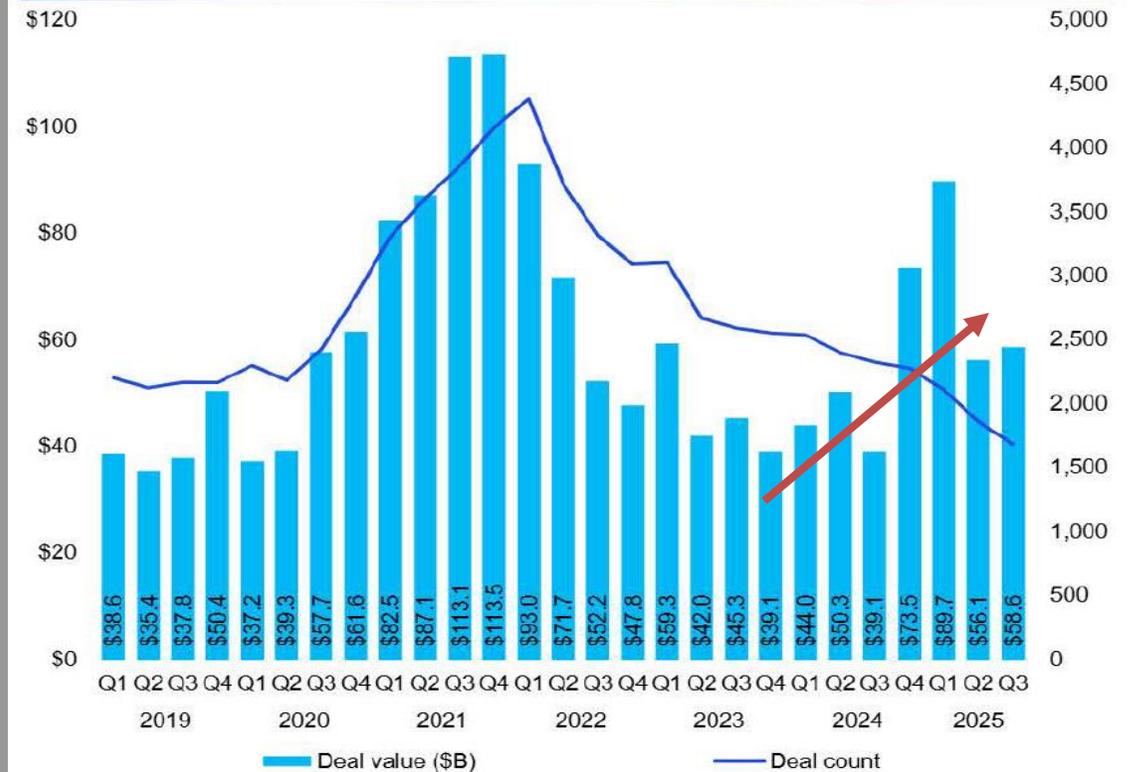
2019-Q3'25



Source: Venture Pulse, Q3'25 Global Analysis of Venture Funding, KPMG Private Enterprise. \*As of September 30, 2025. Data provided by PitchBook, October 15, 2025.

Corporate VC participation in global venture deals

2019-Q3'25

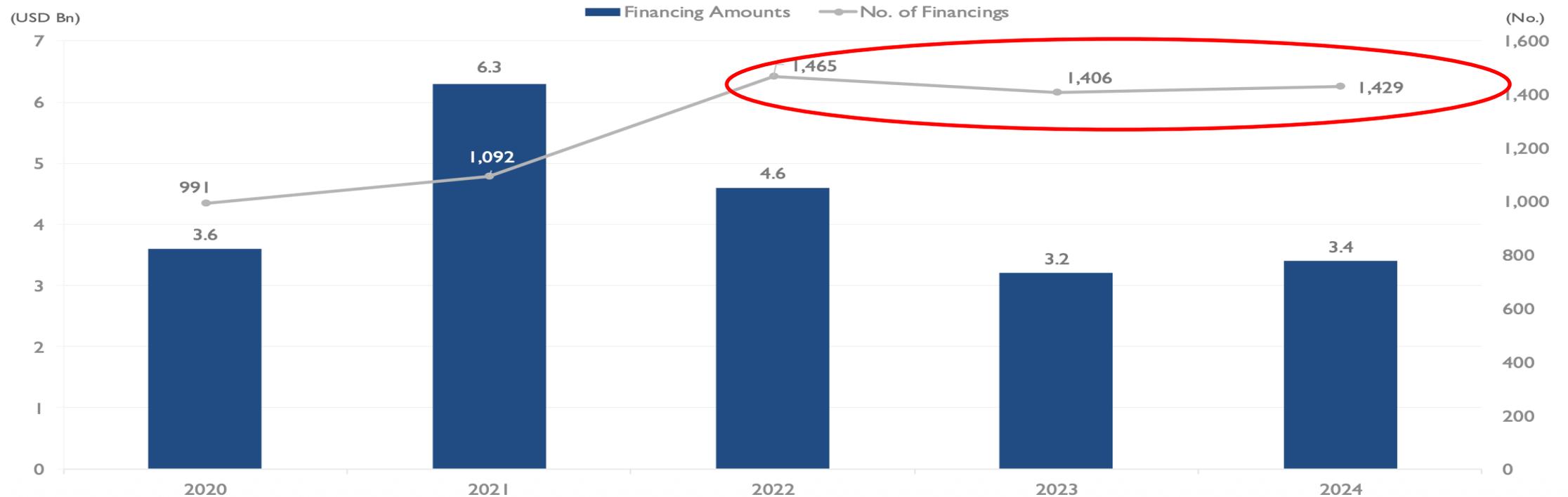


## VC vs. Corporate Venture Investment

Comparing the venture capital ecosystems in Japan to the more established market in Silicon Valley.

# Statistics and Trends

## Japan venture funding



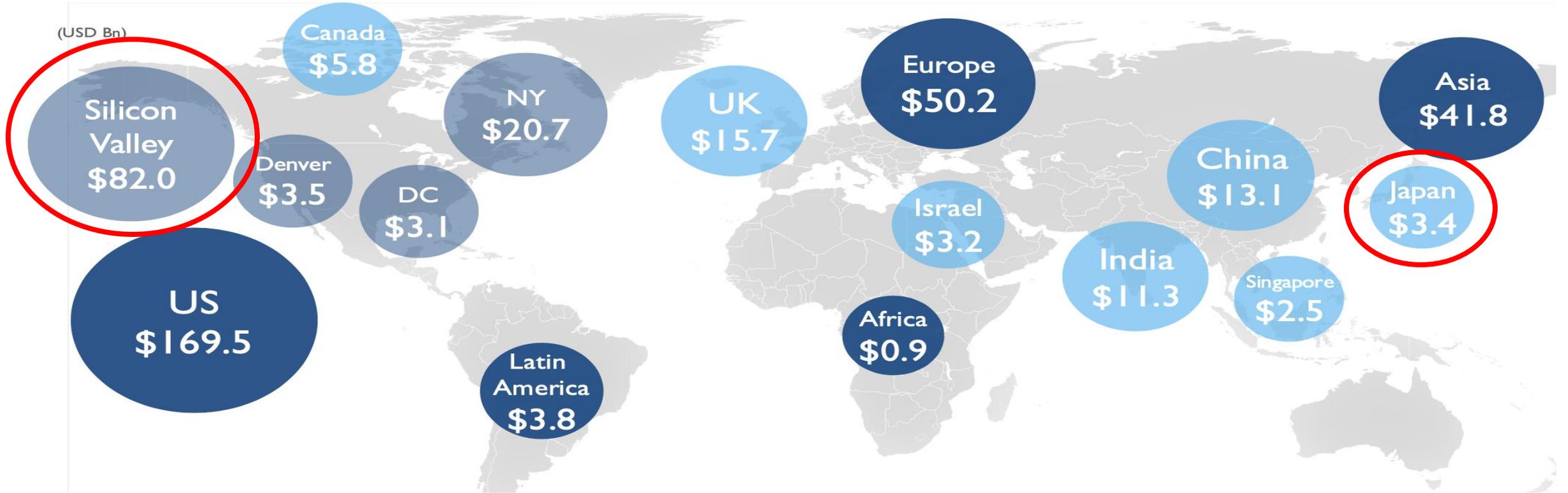
Source: CB Insight Research - State of Venture Global 2024 recap (P. 202)

## Japan Venture Capital Investment Trends

Growth of venture capital in Japan.

# Statistics and Trends

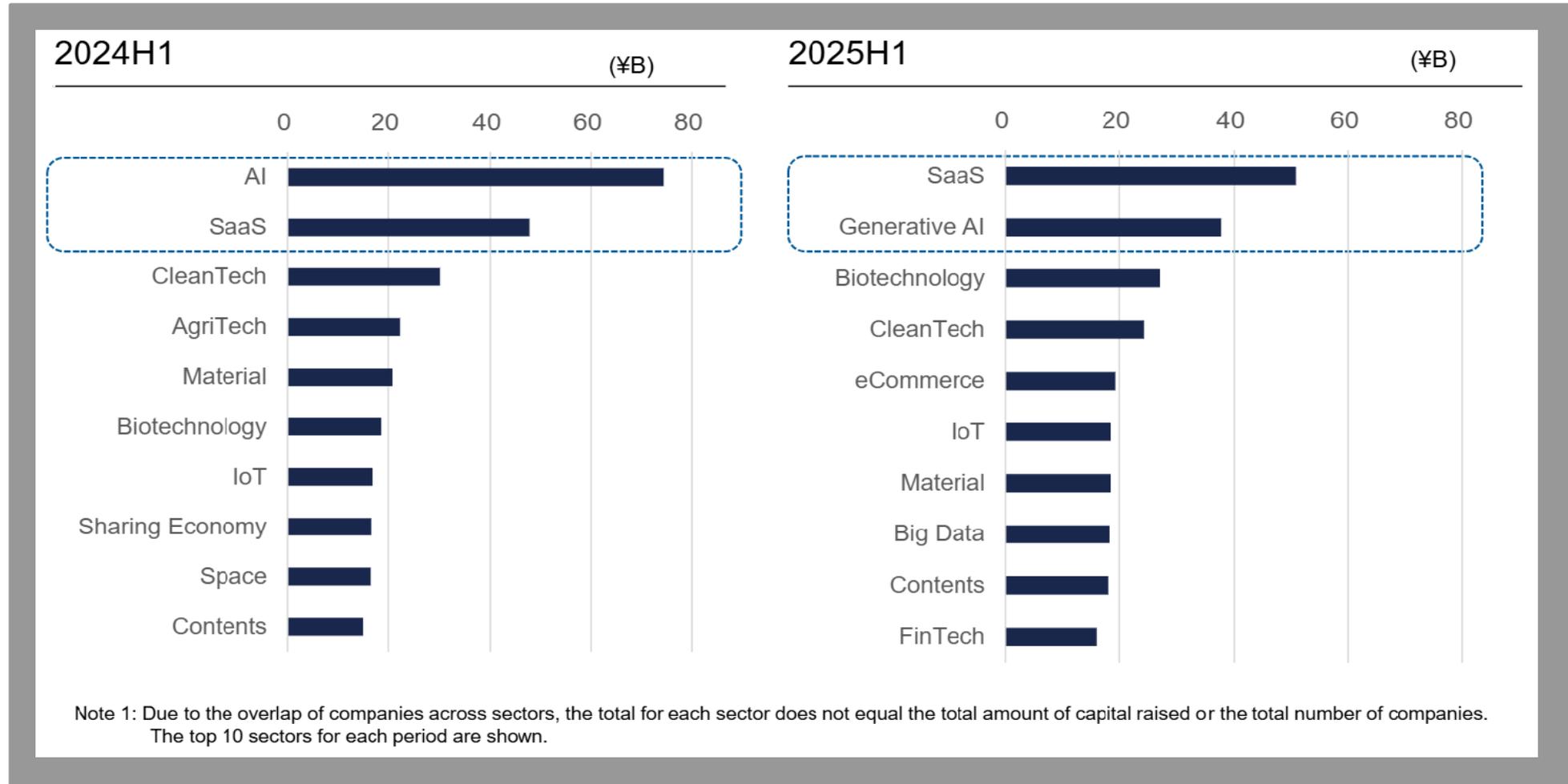
Size of Japanese VC market relative to leading VC markets



## Japan vs. Silicon Valley

Comparing the venture capital ecosystems in Japan to the more established market in Silicon Valley.

# Statistics and Trends



## Japan Investment Targets

AI, Software and Biotech are key targets

# What Venture Capital Means for a VC Fund



## Investment Vehicle Seeking High Returns

Venture capital funds are investment vehicles that aim to generate high financial returns through successful exits (IPO or M&A) of their portfolio companies.



## Motivation: Financial, Not Strategic

Unlike corporate investors, the primary motivation for venture capital funds is to achieve financial gains, not strategic business objectives or synergies.



## Different Objectives from Corporate Investors

This means that the goals and decision-making criteria of venture capital funds can often differ from those of corporate investors, who may have more strategic considerations.

**Understanding the investment vehicle perspective of venture capital funds, and how their financial-driven objectives may differ from corporate strategic goals, is crucial for in-house counsel to navigate successful partnerships.**

# The Silicon Valley Model



# What Venture Capital Means for a Company

## Equity Investment in Early-Stage Companies

Venture capital involves making equity investments in young, unlisted companies, typically in the technology or innovation sectors.

## Minority Positions

Venture capitalists usually take minority ownership stakes in the startups they invest in, rather than controlling majority positions.

## Strategic Goals

Corporate investors have strategic goals in mind when making venture investments, such as gaining insights, establishing commercial relationships, or exploring potential acquisition opportunities.

## Contrast with Private Equity and M&A

Venture capital differs from private equity and traditional mergers and acquisitions in terms of investment objectives, deal structures, and risk profiles.

# Common CVC Structures



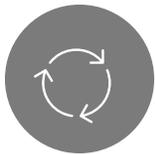
## Direct investment by business divisions

Individual business units or divisions make direct venture investments to support their strategic goals and access new technologies



## Separate CVC entity

A standalone corporate venture capital subsidiary or affiliate with its own investment mandate and decision-making process, often with a more independent structure



## Centralized CVC division

A dedicated corporate venture capital division that oversees and manages the organization's venture investments across different business units



## LP in VC fund or proprietary fund structure

The corporation invests as a limited partner in an established venture capital fund or creates its own proprietary venture fund structure

Corporations have a variety of CVC structures to choose from, each with its own advantages and considerations in terms of strategic alignment, resource allocation, and governance. The appropriate structure will depend on the organization's specific objectives and risk appetite.

# Challenges for Corporates



## Valuation

Determining the appropriate valuation for a startup can be challenging, especially with limited financial history and high growth potential. VC funds typically lead negotiations on valuation.



## Risk Assessment

Evaluating the risks associated with a venture investment, including technology, market, and team risks, requires careful analysis.



## Deal Structuring

Negotiating the investment terms, such as preferred stock, SAFE, or convertible notes, to align with corporate goals and protect minority positions.



## Internal Approvals

Navigating the complex internal governance processes for Japanese corporate investor to obtain necessary approvals for venture investments can be time-consuming and challenging.

**Navigating the unique challenges of venture capital investments, such as valuation, risk assessment, deal structuring, and internal approvals, is crucial for in-house counsel to ensure successful partnerships with the startup ecosystem.**

# What You Need to Know

## Valuation: Venture vs. Strategic

Understand the different valuation approaches between venture investors focused on financial returns and strategic corporate investors with additional strategic goals.

## Risk Assessment

Carefully assess the risks associated with early-stage investments, including high failure rates, uncertain technology, and unproven business models.

## Deal Structures

Familiarize yourself with the various investment structures used in venture deals, such as preferred stock, SAFE, J-KISS, and convertible notes, and their unique terms and implications.

## Minority Protections

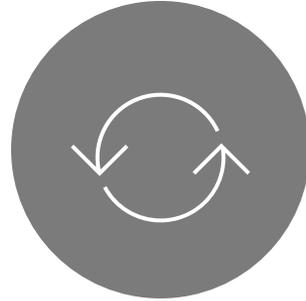
Ensure adequate minority shareholder protections are in place, such as information rights, consent requirements, and exit rights, to safeguard the company's interests.

# Business Considerations



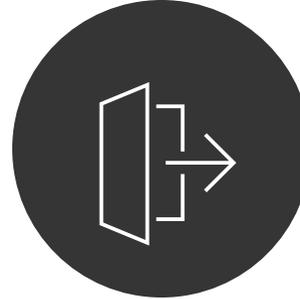
## High Failure Rate

Venture investments have a high risk of full loss, with many startups failing within the first few years.



## Need for Follow-On Investments

Successful startups often require multiple rounds of funding, necessitating the commitment of additional capital over time.



## Commercial Engagement

Strategic objectives, such as a commercial agreement with the startup, need to be conveyed early and clearly to the startup.

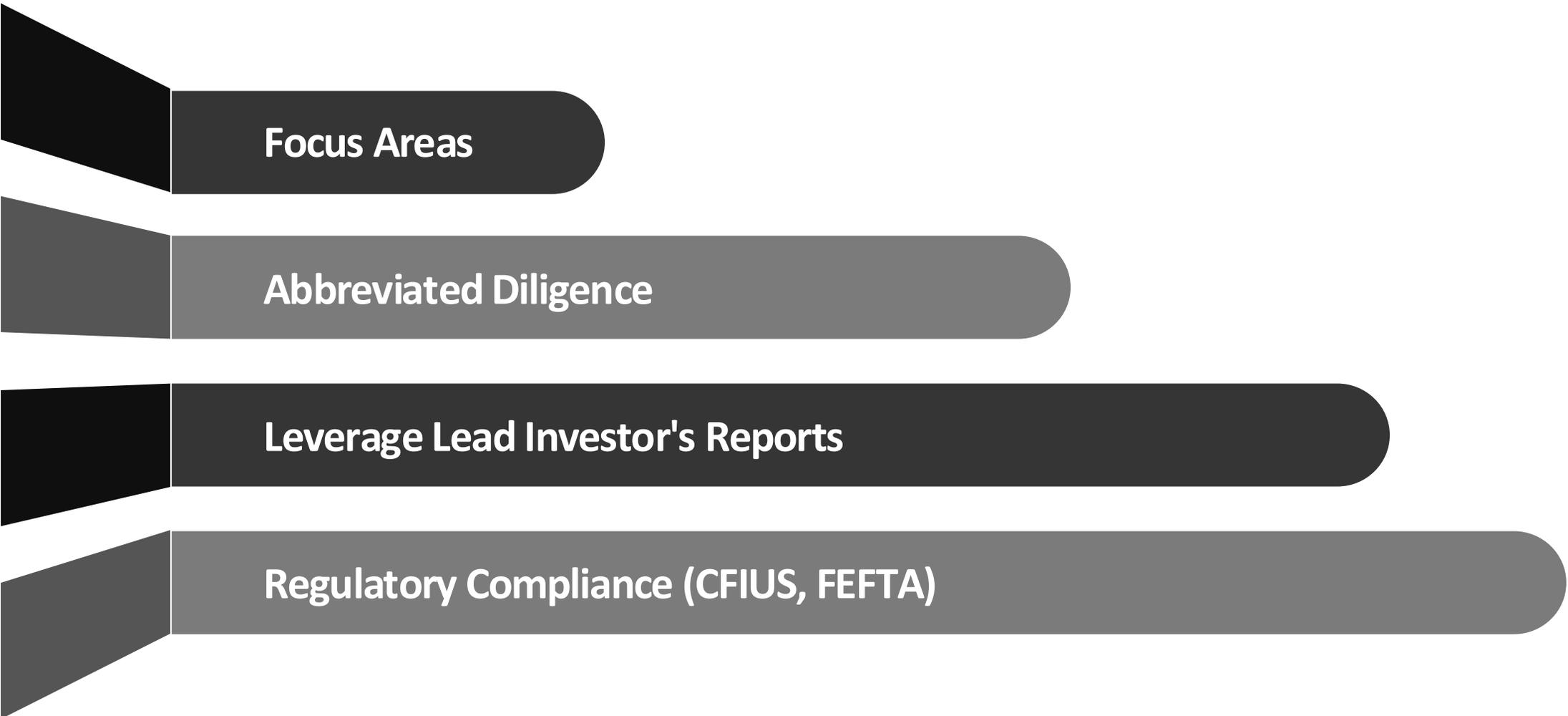


## Ongoing Oversight

Venture investments require continuous monitoring and engagement to ensure the startup's progress and alignment with corporate goals.

**Venture capital investments come with inherent risks and challenges, but with proper planning, diligence, and ongoing oversight, they can be a powerful tool for driving corporate innovation and growth.**

# Due Diligence



**Focus Areas**

**Abbreviated Diligence**

**Leverage Lead Investor's Reports**

**Regulatory Compliance (CFIUS, FEFTA)**

# Main Investment Structures

## Preferred Stock

The standard structure for venture capital investments, where investors receive preferred shares with special rights and protections, such as liquidation preferences, conversion privileges, and voting rights.

## SAFE (Simple Agreement for Future Equity)

An alternative to convertible notes, where investors receive the right to future equity in the startup, without receiving actual shares upfront.

## J-KISS (Japan Keep It Simple Security)

A simple convertible security based on the SAFE model, designed for the Japanese market to provide a straightforward investment structure.

## Convertible Notes

Debt instruments that offer better protection than SAFEs and are used for bigger convertible financing rounds, but have largely been replaced by the SAFE in the US.

# Key Documents

- **Non-Disclosure Agreement (NDA)**

Confidentiality agreement to protect sensitive information shared during the due diligence process

- **Term Sheet**

Outlines the key terms and conditions of the investment, serving as a basis for the final agreement

- **SAFE/J-KISS/Convertible Note**

Alternative investment structures that provide flexibility and simpler documentation

- **Capitalization Table**

Detailed breakdown of the company's ownership structure and existing investors

- **Due Diligence Report**

Comprehensive report summarizing the findings from the investor's due diligence process

- **Stock Purchase Agreement / Investment Agreement**

The final legal contract governing the investment, including all terms and conditions

- **Articles of Incorporation**

The company's founding documents that outline its structure, governance, and operations

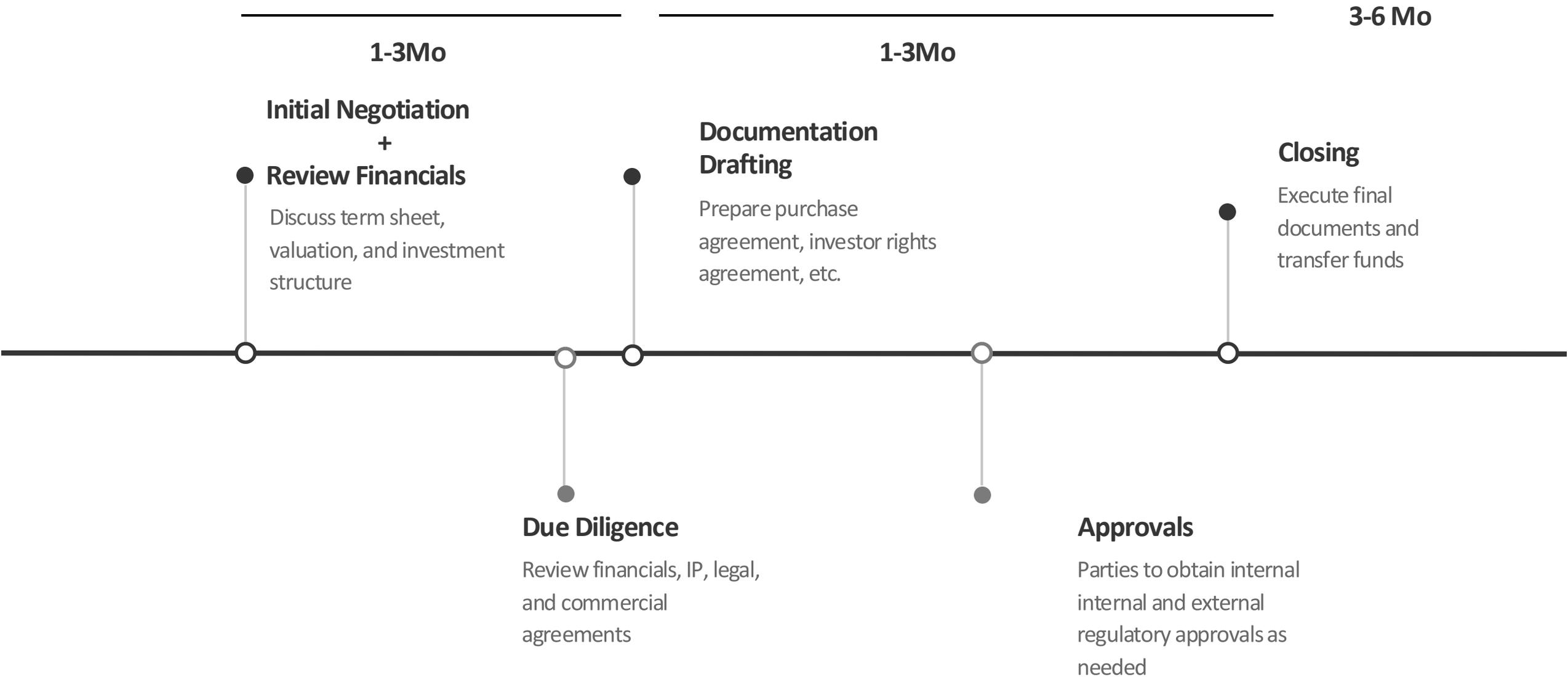
- **Shareholder's Agreement**

Defines the rights and obligations of the company and the investors, including rights of first refusal, drag-along rights, preemptive rights, information rights, board rights, and consent rights.

- **Commercial Agreement**

Outlines any strategic partnerships or collaborations between the company and the corporate investor

# Transaction Schedule



# Key Terms for Preferred Stock

## Ownership

Preferred stockholders typically hold a minority ownership stake, with common shareholders owning the majority.

## Liquidation Preference

Upon a liquidation or acquisition, preferred shareholders receive their investment back before common shareholders.

## Governance and Information Rights

Investors will typically receive financial information about the company and may receive board seats and observer rights.

## Drag-Along & Tag-Along Rights

Drag-along rights allow majority shareholders to force minority shareholders to join in a sale, while tag-along rights allow minority shareholders to sell.

## Protective Provisions

Preferred shareholders often have approval rights over major corporate actions, such as raising additional capital or changing the company's charter.

# LP Investments in VC Funds

## Less Access to Startups than Direct Investments

LPs have no direct contact with startups; GPs handle all negotiations and communications with portfolio companies.

## But Broader Exposure to Startups

LPs learn of a lot of startups from GP's reports. LPs can negotiate rights to receive introductions to portfolio companies, to co-invest, and to participate in industry events organized by the GP

## Efficient Learning Experience

LPs can see from a distance how professional VCs invest. Strategic LPs can negotiate secondments arrangements with the GP.

## But Comes at a Cost

In order to receive these special rights, especially secondment rights, the LP must be among the biggest investors in a fund, and the largest and most successful funds typically do not offer these special rights.

# Common In-House Issues

- **Exit Options and Approvals**

In-house counsel should understand the different exit scenarios, such as IPO or acquisition, and the necessary approvals required from the board, shareholders, or regulatory bodies.

- **Negotiation Scope**

In-house counsel should be aware of the typical negotiation points and the appropriate level of involvement, balancing the need for strategic oversight with the venture fund's decision-making authority.

- **Board Seat or Observer Rights**

In-house counsel should consider the benefits and implications of securing a board seat or observer rights, including the responsibilities and potential conflicts of interest.

- **Selecting External Counsel**

In-house counsel should carefully choose external legal counsel with relevant venture capital experience to ensure efficient and effective negotiations and transactions. VC is not the same as M&A!

- **Timeline and Regulatory Considerations**

In-house counsel should be mindful of the transaction timeline, including any applicable regulatory approvals or filings (i.e., CFIUS and FEFTA), and plan accordingly to avoid delays or complications.

- **Limits on Information Sharing**

CVCs often invest to obtain information, but this information is usually limited to financial and business information. In-house counsel need to advise the business teams that if they want technological or commercial information, that will require a commercial agreement or other special arrangement.

# Key Take-Aways

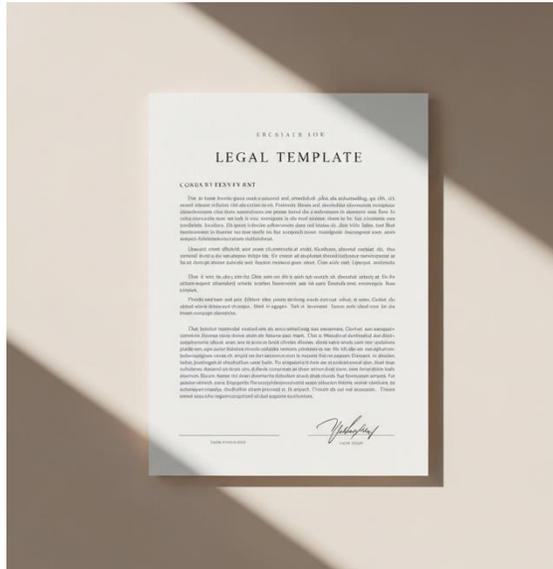
## Business Drivers

- Access to Cutting Edge Innovation
- Maintain Competitiveness & Relevance
- Enable Integration of Ideas, Talent and Technology from External Source
- Future M&A Candidate, Supplier or Partner

## In-House Considerations

- VC v. Corporate Goal Differences (financial returns v. strategic returns)
- Plan for High Failure Rates; Follow-On Support
- Foundational Legal Instruments – SAFE, JKISS, Preferred Stock
- Secure Minority Protections
- Regulatory Impacts
- Get Real VC Based Experienced Advice

# Resources and References



## [NVCA Template Documents](#)

Access a library of standard venture capital investment documentation from the National Venture Capital Association.



## [Pitchbook VC Trends 2025](#)

Review the latest industry research and forecasts on the future of venture capital from Pitchbook.



## [JVCA Membership and Guidance](#)

Leverage the resources and community of the Japan Venture Capital Association to stay up-to-date on the local market.



southgate

we want to hear from  
**you.**



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<https://southgate-law.com>

about us

***Strategic Legal Advice. Venture and M&A.***

*2018-2025: Recognized by Chambers and Legal500 for M&A in Japan.*

*2019: Boutique Law Firm of the Year at ALB Japan Law Awards.*

*2023: Rising Law Firm of the Year at ALB Awards (first ever recipient).*

*2024: 1 of top 4 PE & VC firms in Japan by Asia Business Law Journal.*

*2025: Transactional Boutique Law Firm of the Year at ALB Awards (first ever recipient).*