



DEAL FLOW 2.0

EUROPEAN VENTURE CAPITAL
DEAL TERM REVIEW 2021

DEAL TERM REVIEW 2021 EUROPEAN VENTURE CAPITAL

Foreword

Investors poured more than \$100B into European tech last year, a staggering sum more than triple the size of investments made the previous year.¹

Orrick helped close nearly 500 transactions, which raised more than \$20B in some of the most dynamic sectors of the European market in 2021, including FinTech, Marketplaces and Energy & Infrastructure.

In an era of fast-paced technological innovation and transformational change, we have closed more than twice as many deals as any other firm in Europe in the last several years. It's an honour to help so many bright minds usher in waves of innovation to help people and businesses around the world.

Our deep involvement in the European tech and venture ecosystem gives us unique insights into typical deal terms and market trends. We share some of those insights in our new Deal Flow 2.0 report, based on a review of deals we helped close in Europe in 2021.

The report paints a composite portrait for investors and tech companies of standard deal terms across the European tech ecosystem, and it places that data into the broader context of market trends unfolding across Europe.

We analysed nearly
500

Venture Financing Deals

FROM 2021

totalling
\$20B+

ACROSS EUROPE

around
20%

OF THE TOTAL
CAPITAL RAISED
ACROSS THE REGION

Ranked

#1


Q3, 2021

VC Law Firm in Europe

FOR 23 CONSECUTIVE
QUARTERS

completing

2.5x

THE NUMBER OF DEALS
THAN ANY OTHER FIRM

¹ [2021 State of European Tech](#) Report.

DEAL TERM REVIEW 2021

EUROPEAN VENTURE CAPITAL

Key takeaways include:

- ▶ Increased competition for deals favoured founder control and yielded more company- and founder-friendly terms, including:
 - A 12%+ increase in founder and Board appointment rights, with founders protecting their positions and bargaining power for future rounds.
 - 10-40% founder veto and 40-100% drag-along rights across all deal stages.
- ▶ High interest in FinTech investments, which accounted for roughly one in four deals in our portfolio last year. The adoption of secure digital transactions and financial inclusion efforts by startups helped fuel interest, which mirrors a broader 159% increase in FinTech investments across Europe in 2021.²
- ▶ Marketplaces showed the largest growth by sector in our portfolio — about 9 percent. That is largely due to greater digitalisation of non-traditional users, and it unfolds as consumer spending shifts increasingly online. We also saw healthy increases in investments in the SaaS & Platforms and Energy sectors.

Our review also showed increases in valuation and the size of funding rounds, with companies scaling to unicorn status and public offerings more quickly. That and several other findings on broader market trends parallel conclusions in [The State of European Tech](#), the most comprehensive data-driven analysis of tech in Europe.

We are honoured to support that report and grateful to Atomico for creating it. Our hope is that Deal Flow 2.0 proves a valuable supplement to that important work by offering investors and tech companies actionable insights based on a review of real-world deals.

Behind the Numbers



Our Orrick Analytics team has designed and utilised a first-of-its-kind augmented AI tool to read our deal data and term sheets and produce unique data-driven insights into some of the most diverse and innovative high-growth companies and investors.

Deals have been analysed across our offices in key European hubs:



² [2021 State of European Tech](#) Report.

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EUROPEAN VENTURE CAPITAL

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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.
- **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.
- **Technology** includes AI, AR, Communications, DeepTech, Image Recognition Technology, IT, QuantumTech, Semiconductors, Space Tech, VoiceTech and Web Browsers.

▶ Deal values all in US\$ using GBP/USD fx rate of 1.365; EUR/USD fx rate of 1.1404; *Based on FT FX Rates of 17 Jan 2022.*



DEAL TERM REVIEW 2021 KEY INSIGHTS

A View from the Market

- ▶ Now is a watershed moment for the European tech and venture ecosystem. With **record levels of investment (\$100B+)** and greater competition for the best deals, Europe has seen considerable **increases in the size of funding rounds** and its **strongest herd of unicorns** ever.
- ▶ European startups are experiencing new levels of growth and are accelerating towards **IPO or a liquidation event faster than ever before**. The total number of tech companies scaling to unicorn (**\$1B+**) in Europe ballooned by 44%³ in 2021.
- ▶ The role that large global hedge funds and investors have played on the ecosystem has been seismic, pouring in record levels of investment, leading to **huge spikes in company valuation**.
- ▶ **FinTech investment has led the charge**, rising by 159%, with total investment at nearly \$15B.⁴
- ▶ **Huge growth in social, environmental and purpose-driven investments** — with “planet-positive” investments capturing 11% of total funding⁵ in 2021 — as we work towards the collective goal of sustainability.
- ▶ For many founders, the pandemic forced another year of uncertainty and change, accelerating the **decentralisation of teams across Europe** and increasing regulatory scrutiny on investments.

\$100B+

Investment in European Tech
IN 2021 (3X THE LEVEL VS. 2020)

↑ \$1B+
44%



Tech Companies
scaling to Unicorn

↑
159%

FinTech Investment

WITH NEARLY
\$15B INVESTED
ACROSS EUROPE

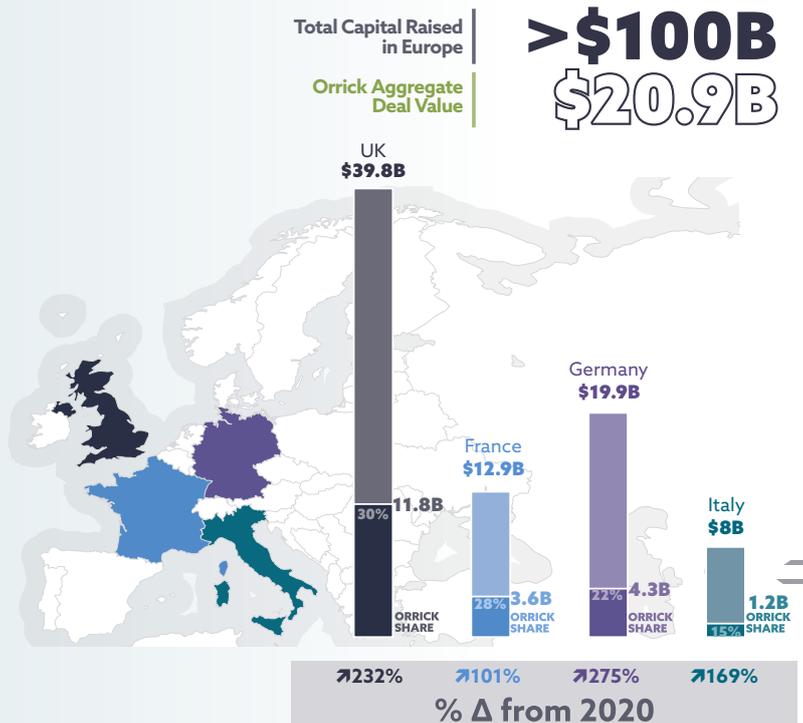


DEAL TERM REVIEW 2021 KEY INSIGHTS

A View from Orrick

- ▶ We helped raise **more than \$20B across Europe** — around **20% of the total capital raised** across the region — a **2.1x increase vs. deal value in 2020** which itself was a record in the market.
- ▶ Orrick's teams are based in Europe's top tech hubs for investments and deal volume, including the UK, Germany and France, and Italy (deal volume only).⁶
- ▶ We've seen continuing interest from EU companies/founders wanting to set up in these hubs due to **better access to capital**, all the while hearing from founders that **physical location is becoming less important** as many startups adapt to flexible and decentralised ways of working.

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



*Europe Totals based on 2021 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 record nearly 500

VC DEALS COMPLETED
ACROSS EUROPE IN 2021

2.5x

the # of deals

COMPARED TO ANY OTHER FIRM

Closed Deals

↑ increase
35% VS. 2020

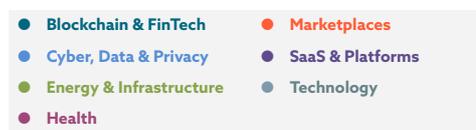
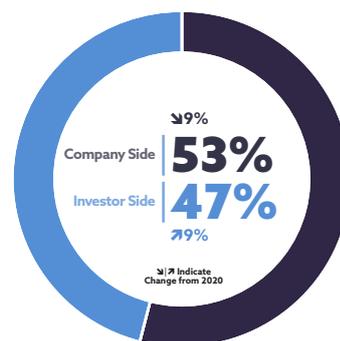
6 [2021 State of European Tech](#) Report.

1 DEAL TERM REVIEW 2021 VENTURE FINANCINGS

This data looks at our closed 2021 European venture financings raised by and on behalf of startups and high-growth companies by investors.

By Company vs. Investor

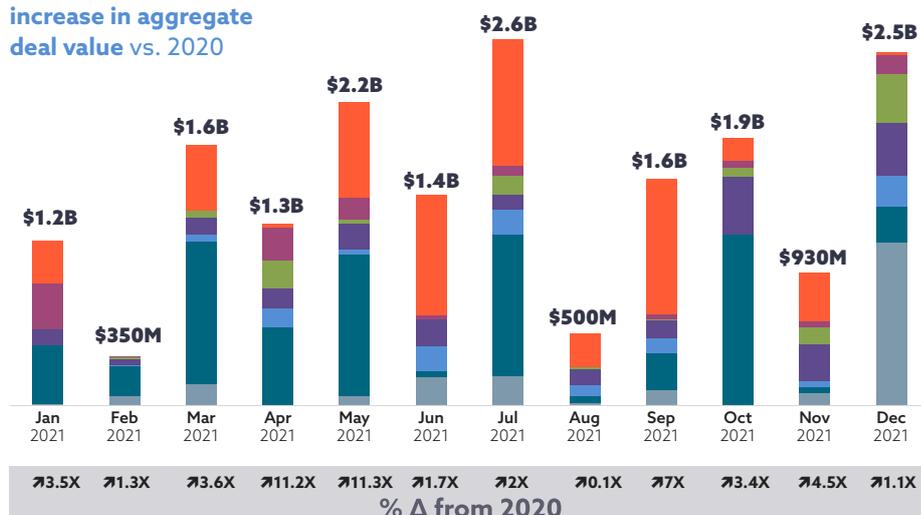
- ▶ We have seen **greater competition for the best deals** between investors this year as a result of more capital available to deploy and investors in a stronger position to finance more company growth rounds.
- ▶ Regardless of preferred stage of entry, **valuation** and **cheque-size inflation** are two of the main consequences of increased competition to win deals.



By Aggregate Deal Size

- ▶ Big changes in the most active and high-value months:
 - Uncharacteristically **active summer months for two consecutive years**. May saw the biggest increase (**12x**) and July the greatest surge in capital invested (**3x**), which may be attributable to an uptick in work following government lockdowns and a decline in international travel.
 - **High levels of activity** in March (**4.6x** spike) likely attributable to the end of the UK tax year and continuing high levels at year-end (**2x**) in order to reach deal close in 2021.

A staggering **210% increase in aggregate deal value vs. 2020**



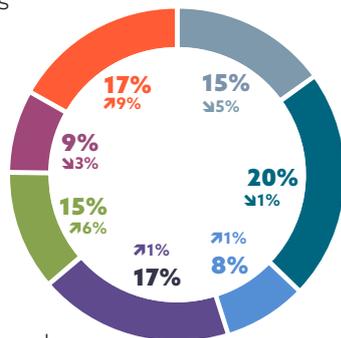
* Representative weighting of transactions—not reflective of actual number of transactions completed; 2020 Totals superimposed and values shown in grey.

DEAL TERM REVIEW 2021 VENTURE FINANCINGS

By Sector

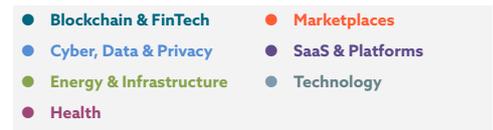
Marketplaces: Largest growth (8x size and 9% market share) — raising almost \$4.9B — due to **greater digitalisation** of non-traditional users and as **consumer spending shifts increasingly online**.

Energy: Fastest-growing “planet-positive” sector (2x increase): almost \$1B raised with concentration largely in CleanTech and Mobility. YoY increase suggests investment will continue as the **Tech industry works towards the wider societal goal of environmental sustainability**.



Technology: Stable 15% market share: **concentration mostly across AI, DeepTech and Quantum Tech deals**. There have been steady increases in the number of large investments in this space over the past three years, which has led to **increased regulatory scrutiny**.⁷

Blockchain & FinTech: Maintains largest share of deals. FinTech companies have increased financial inclusion by offering solutions to low-income customers and small enterprises — such companies **raised more than double compared to any other sector across later-stage rounds**.⁸ A breakthrough year for the creator economy in blockchain: the adoption of crypto, web3 and NFTs fuelled over \$1B worth of Orrick deals in this space.



SaaS & Platforms: Steady increase (3% market share and 2x size) as companies both **develop and require new virtual solutions** in the pandemic.

Rounds by Deal Value

- ▶ We've seen **later-stage deals** (Series C-D) attract the most substantial levels of investment (with a **99% increase in average deal size**).
- ▶ Deal count in **earlier-stage investments** (Series Seed-B) grew faster (**+260%**) and saw an **81% increase in average deal size**.
- ▶ **Series E+ deals** saw a combined aggregate deal value of **\$3.9B** and an **average deal size of \$332M** due to greater access to capital and increased investor interest in later-stage businesses allowing companies to **accelerate towards IPO or a liquidation event faster than ever before**.



⁷ The UK government has introduced the National Security and Investment Act 2021 which imposes a mandatory notification regime for transactions in 17 “high risk” areas of the economy, including advanced robotics, artificial intelligence, data infrastructure, energy, synthetic biology and quantum technologies. Orrick’s UK NSI Assessment Tool helps both UK and foreign companies and investors targeting those with activities in the UK navigate these complex rules - <https://www.orrick.com/en/Solutions/UK-National-Security-and-Investment-NSI-Assessment-Tool>.

⁸ “Nearly 1 in 3 private European tech companies are FinTech companies, including 4 of the 10 tech companies in Europe with the highest valuation.” — [2021 State of European Tech Report](#).



Spotlight



Mega Rounds

A record year for mega rounds with almost **20% of our total European VC deals** with a value of **\$100M+**, and almost half of those at **\$250M+**.

Investment growth in 2021 was largely driven by bigger rounds (\$250M+), which **grew 10x vs. 2020**, now representing **40% of the total capital invested** in Europe.⁹



Unicorns

In 2021, our European teams acted for, or on behalf of the investors into, **20% of the newly recorded unicorns** across Europe.

Technology companies in Europe grew faster than ever, **with another 100 reaching unicorn status** in 2021.¹⁰



Big Exits, Fast-Scaling Companies

In 2021, our European Technology teams advised on **Tech M&A Deals totalling \$25B** for our venture capital clients. We have recently advised on **11% of the total IPOs on AIM/Main Market¹²** and executed **more successful de-SPACs in the tech sector** than virtually any other law firm.

Record exit value across Europe in 2021 is now in excess of **\$275B**. It includes **\$100B from M&A, \$110B+ via IPOs** and direct listings and another **\$62B via SPACs**.¹¹

9-11 [2021 State of European Tech](#) Report.

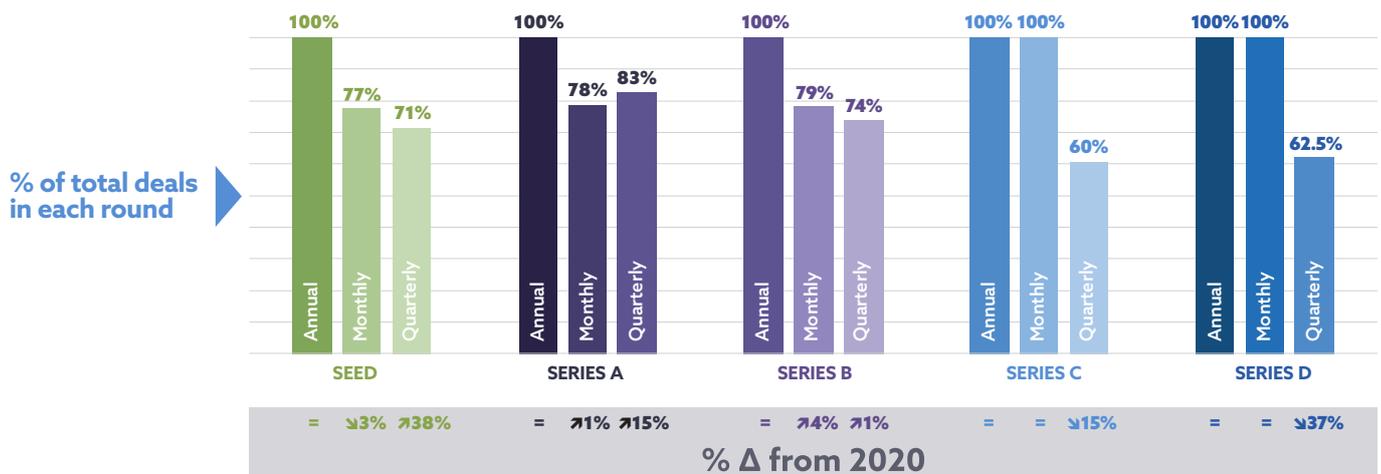
12 LSE filings.

1

DEAL TERM REVIEW 2021 VENTURE FINANCINGS

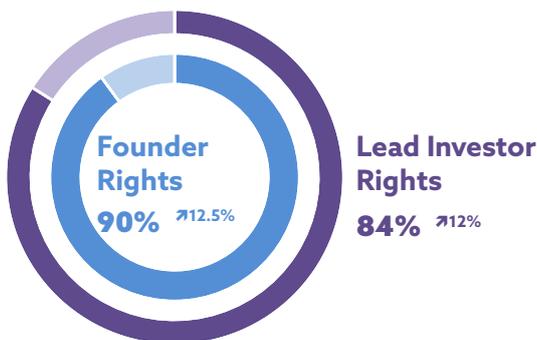
This section looks at the specific deal terms across venture financings, including rights, preferences and protections for companies, founders and investors.

Information Rights



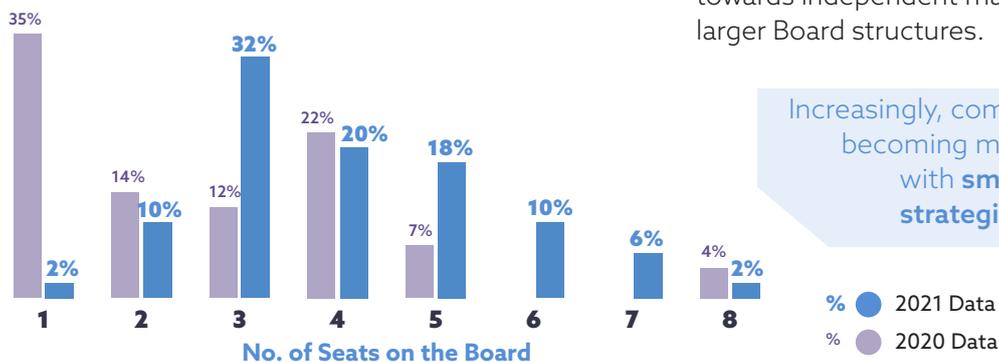
► All deals include Information Rights on an annual basis. In addition, the majority of deals also feature Information Rights on a quarterly and monthly basis.

Board Rights



► **12%+ increase in founder and Board appointment rights** as founders maintain or increase their positions within their companies. **More founder control** over future financing rounds and growth strategy, and protections in place to maintain control in later stages.

► Large increases in the number of Board seats as founders increase their control and position in the company. Considerably **more founders are on the Board in early-stage companies** as later-stage companies move towards independent management teams, NEDs and larger Board structures.



Increasingly, companies are becoming more nimble with **smaller, more strategic Boards**.¹³

¹³ Unlike UK Boards, in Germany the concept of a Board tends to refer to an advisory (purely supervisory) body, which can be bigger and is almost always more than 1. In the UK, advisory boards are less common, so references to the "Board" are to a governing (decision-making) Board, which Founders are keen to keep nimble.

Rights, Preferences and Protections

Liquidation Preferences

- ▶ Over **90%** (Series C) raising to **100%** (Series D and beyond) had **1x non-participating liquidation preferences** as standard.
- ▶ Figures show **fewer early-stage deals have anti-dilution preferences**. Companies are increasingly moving away from anti-dilution at Series C rather than Series D.
- ▶ **More company-friendly terms** across all deal stages outside of valuation, leading to more bargaining power for future financings.

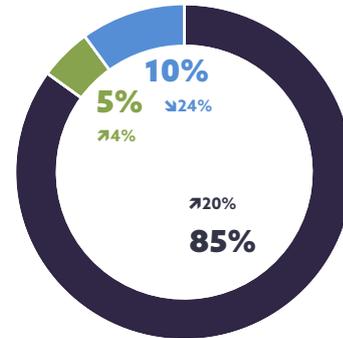
Anti-Dilution Preferences

- ▶ We have started to see **more founder-friendly terms in later-stage deals** with **anti-dilution occasionally falling away for junior share classes** when the investment is underwritten by later money.
- ▶ Our data shows **fewer early-stage deals have anti-dilution preferences**, and companies are increasingly moving away from anti-dilution at Series C rather than Series D.

Rights

- ▶ There has been a **shift at later stages** to have a **simple majority (75%) for drag**, *i.e.*, not always requiring investor majority concept.
- ▶ **100% of the deals** at each financing stage feature a **drag threshold of 50% or higher**.
- ▶ The vast majority of our deals have drag-along rights, **with founder veto prevalent in earlier stages** and **dropping off in later stages**.

Anti-Dilution Protection

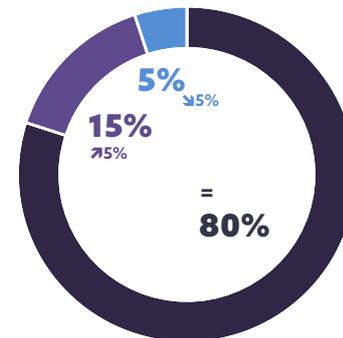


Broad-Based Weighted Average

Other

None

Liquidation Preferences



1x Participating

1x Non-participating

None

1

DEAL TERM REVIEW 2021 VENTURE FINANCINGS

Seed

LIQUIDATION PREFERENCES



87% were 1x non-participating preferred, common *pro rata*

ANTI-DILUTION PROTECTIONS



100% were entitled to the standard broad-based weighted average protection

DRAG-ALONG RIGHTS



Drag threshold in excess of 50% = 40%
Drag threshold includes Founder veto/consent: 40%

BOARD OF DIRECTORS



Ranged from 1 to 6 seats.
Over 50% of Seed deals had 4 or 5 Board members

Series A

LIQUIDATION PREFERENCES



79% were 1x non-participating preferred, common *pro rata*

ANTI-DILUTION PROTECTIONS



90% were entitled to the standard broad-based weighted average protection

DRAG-ALONG RIGHTS



Drag threshold in excess of 50% = 40%
Drag threshold includes Founder veto/consent: 37%

BOARD OF DIRECTORS



Ranged from 2 to 6 seats.
Over 50% of Series A deals had 4 or 5 Board members

Series B

LIQUIDATION PREFERENCES



78% were 1x non-participating preferred, common *pro rata*

ANTI-DILUTION PROTECTIONS



84% were entitled to standard broad-based weighted average protections

DRAG-ALONG RIGHTS



Drag threshold in excess of 50% = 66%
Drag threshold includes Founder veto/consent: 20%

BOARD OF DIRECTORS



Ranged from 2 to 7 seats.
Over 60% of Series B deals had 5 or 6 Board members

Series C

LIQUIDATION PREFERENCES



66% were 1x non-participating preferred, common *pro rata*

ANTI-DILUTION PROTECTIONS



81% of deals were entitled to the standard broad-based weighted average protection

DRAG-ALONG RIGHTS



Drag threshold in excess of 50% = 100%
Drag threshold includes Founder veto/consent: 14%

BOARD OF DIRECTORS



Ranged from 3 to 8 seats.
25% of the deals stipulated 5 seats.
25% of the deals stipulated 7 seats.

Series D and Beyond

LIQUIDATION PREFERENCES



66% were 1x non-participating preferred, common *pro rata*

ANTI-DILUTION PROTECTIONS



66% were entitled to standard broad-based, weighted average protections

DRAG-ALONG RIGHTS



Drag threshold in excess of 50% = 100%
Drag threshold includes Founder veto/consent: 10%

BOARD OF DIRECTORS



Ranged from 3 to 6 seats.

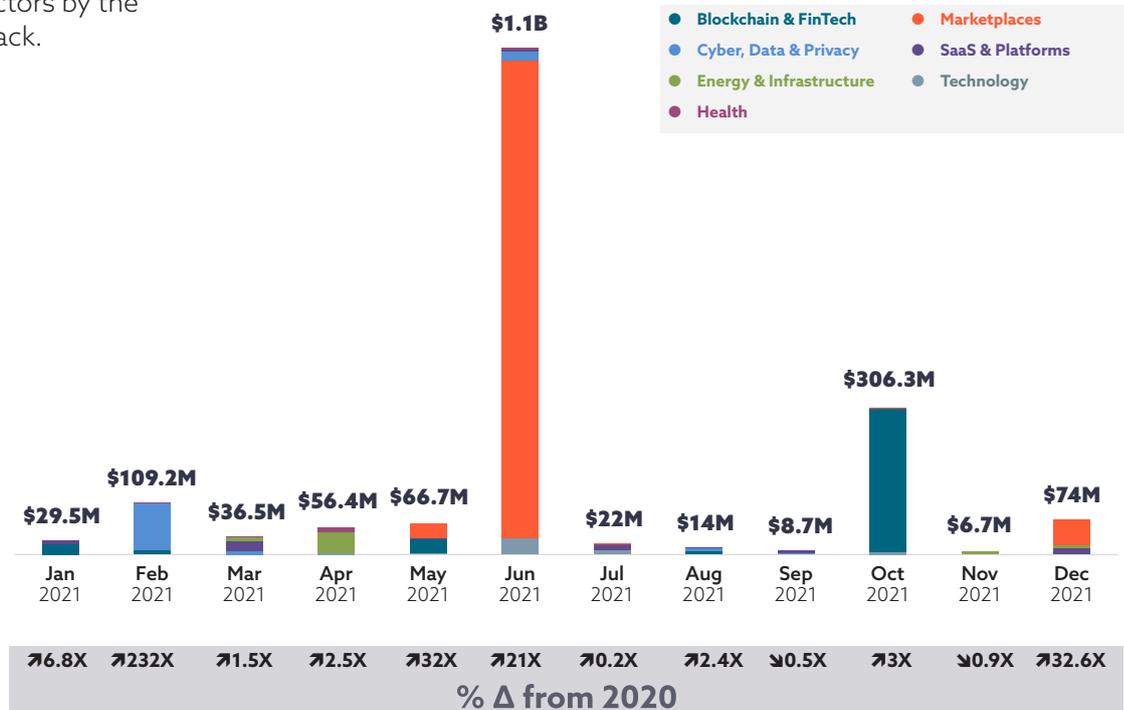
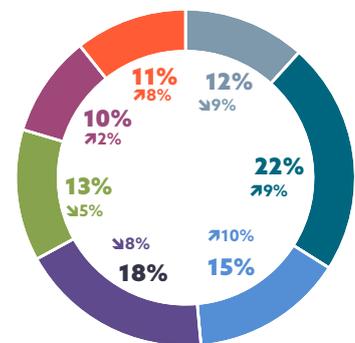
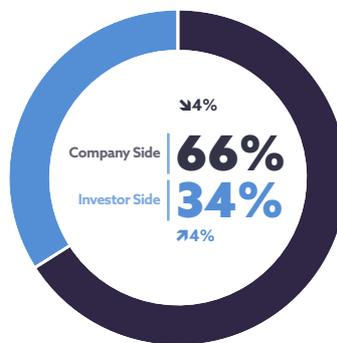
DEAL TERM REVIEW 2021 CLN FINANCINGS

This data looks at our closed 2021 European Convertible Loan Note (CLN) financings raised by and on behalf of startups and high-growth companies by investors.

A CLN is an increasingly used funding instrument – a type of short-term debt that can be converted into equity shares based on the company’s future valuation.

By Aggregate Deal Size and Sector

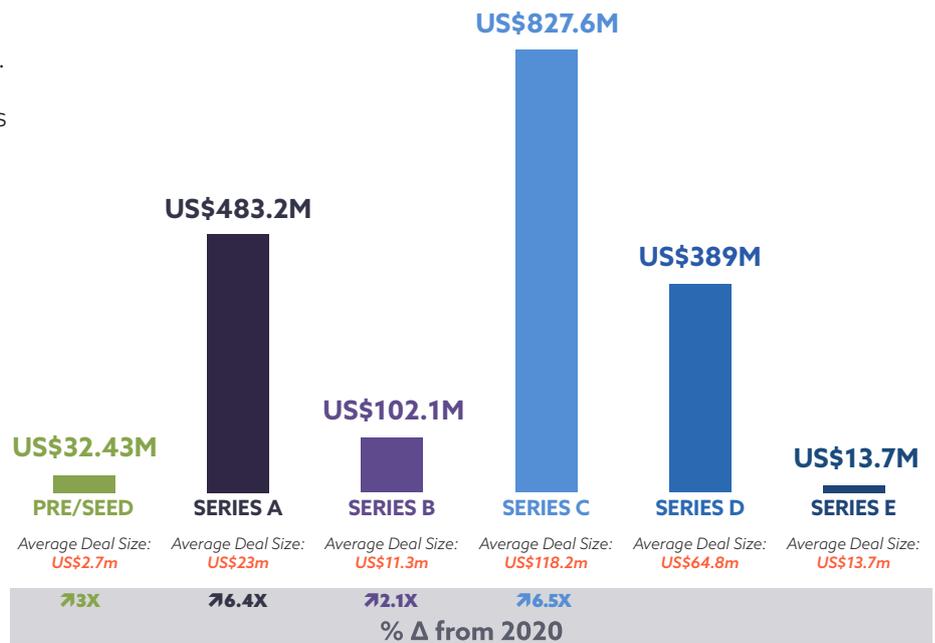
- ▶ A **4% market decline** in the volume of company-side CLN deals as startups increasingly find **alternative access to capital through SAFE and ASA financings**.
- ▶ Despite a decline in the volume of CLNs, we saw a **9x increase** in deal size.
- ▶ A **9% increase in Data deals** and a **2% increase in Health deals** as activity in two of the most heavily impacted sectors by the pandemic bounce back.



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

Rounds by Deal Value

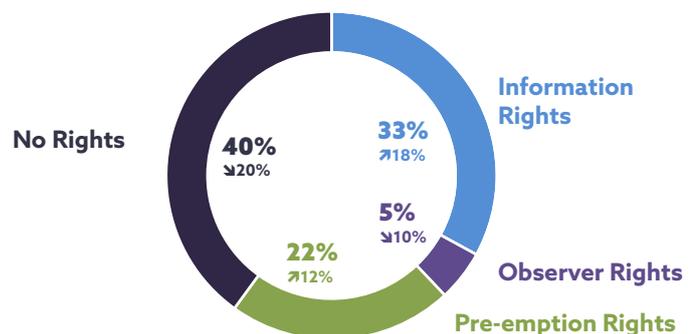
- ▶ Biggest increase in aggregate deal value in Series A and Series C rounds.
- ▶ Average deal size across all rounds is up **203%** (now **US\$38.95m**).
- ▶ Funding schemes (i.e., Future Fund) featured more investor-friendly terms, which **led private investors to raise their terms** for CLNs/debt.
- ▶ **Large increases in earlier-stage companies** leaning away from traditional venture debt and instead **opting for ASAs/SAFEs and early convertibles**.
- ▶ Shift in more **later-stage** CLNs (D+) as **companies are raising faster** and more dry powder available from investors.



▶ Note that in addition to the deals shown here, there were Term Sheets with US\$40.2M Total Value of CLN Deals without a specified Financing Round, with Avg. Deal Size of \$2.5M.

Investor Rights

- ▶ Venture debt is **much more common in later-stage companies** — **more pre-emption and observer rights** in CLNs as a result.



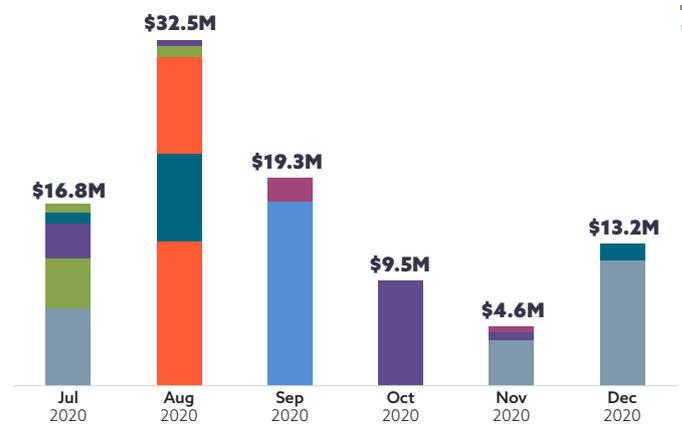
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DEAL TERM REVIEW 2021 UK FUTURE FUND FINANCINGS

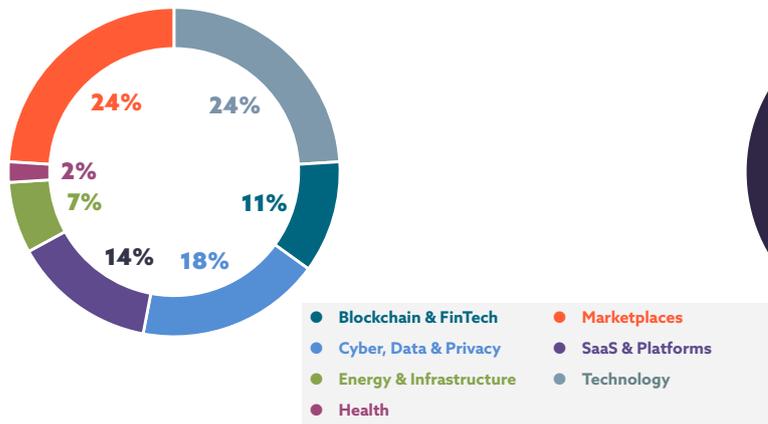
This data reviews our closed 2020 UK Future Fund Convertible Loan agreements and provides analysis on what happened to those deals. We advised HM Treasury on the design and implementation of the Future Fund in response to the COVID-19 pandemic. The scheme has helped to finance thousands of startups.

- ▶ As a route to gain access to financing in a very short period, the Future Fund **worked well to support high-growth companies** through a global pandemic and the challenges it presented.
- ▶ Since its inception and up to close, **50% of our deals have gone on to convert** through new financings (of the same amount or more) or sales, a positive sign for the UK tech and venture ecosystem indicating that companies are able to continue raising capital.
- ▶ In 2021, we continued to advise on more Future Fund deals for early-stage companies as the scheme continued to provide a successful route to gain access to capital.

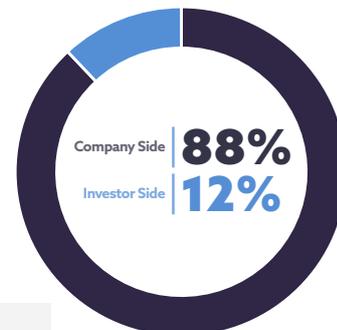
2020 Future Fund Financings by Aggregate Deal Size



2020 Future Fund Deals by Sector



2020 Future Fund Deals



2021: What Happened to those Deals

50%

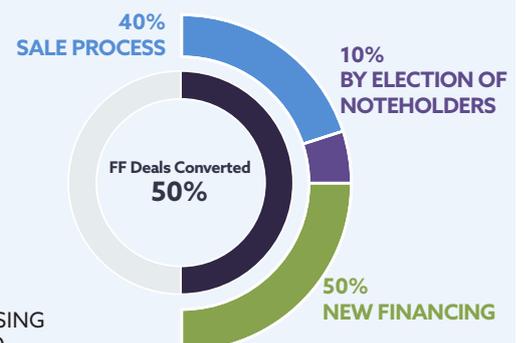
OF THE DEALS ARE YET TO CONVERT

of which
60%

WENT ON TO RAISE ADDITIONAL FINANCE (VIA NON-QUALIFYING ROUNDS).

of this 60%
40%

WERE NEW CONVERTIBLE ROUNDS USING SIMILAR TERMS TO THE FUTURE FUND



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INNOVATIVE LAWYERS 2021

NORTH AMERICA

Financial Times has selected Orrick among the Top 3 Innovative Law Firms in North America for six years in a row (2016-2021).



About Orrick

Creators. Visionaries. Underdogs. The Daring.

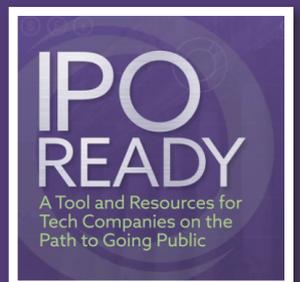
Nothing inspires us more than helping tech companies develop novel strategies and push boundaries. We're passionate about entrepreneurship and guiding the success of early ventures. Through our extensive client portfolio, deal volume and relationships in the tech ecosystem, we provide commercial and legal insight to companies and investors, from incubation to strategic exit and future growth opportunities.

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. We counsel more than 3,000 high-growth tech companies, including 80+ unicorns, as well as the most active funds, corporate venture investors and public tech companies worldwide.

A unique global platform. Based in 25+ 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 six years in a row (2016-2021). 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. On Fortune's list of the 100 Best Companies to Work For (six years in a row), we are able to attract and retain top quality teams for each client.



Diversity, Equity & Inclusion

Orrick has a long-standing commitment to diversity, equity and inclusion. We believe it is not only a moral imperative but is also essential to the sustainability of our firm and our profession. Without diverse perspectives on our team, it would be impossible for us to give forward-thinking advice to the world's most innovative companies.

- ▶ As one of four law firm founders of the [Move the Needle \(MTN\) Fund](#), we set a goal with a \$5M investment that, by 2025, the teams serving an initial set of 40 most-valued clients will comprise of at least 55% diverse lawyers—including women, lawyers of colour and LGBTQ+ lawyers—with meaningful roles appropriate to their level of seniority.
- ▶ We have achieved Mansfield Plus certification for the past three years indicating that we've affirmatively considered at least 30% women, lawyers of colour, LGBTQ+ lawyers and lawyers with disabilities for leadership and governance roles, equity partner promotions, formal client pitch opportunities and senior lateral positions.
- ▶ We are deploying six bias interrupters to unravel systemic inequities—these are science-backed approaches to improve systems of feedback, work allocation, sponsorship, communication/connection and retention, and raise awareness through educational reinforcement.
- ▶ We launched a fellowship program in 2021 where six experienced Orrick lawyers will devote a year of full-time work to partner with organisations working on the frontlines of civil rights, criminal justice reform, social and racial justice, and economic empowerment issues.
- ▶ We inform changes to our DEI program by listening to diverse lawyers across the firm. In particular in 2020, the Black Lawyers of Orrick (BLOO) and the Orrick Women's Initiative each provided recommendations to our Board on how to further advance inclusion and the success of diverse lawyers at our firm. This feedback has helped us implement a range of training and forums focused on enhanced allyship and inclusion.



Mansfield Certified Plus
4 years in a row



Human Rights Campaign
100% score—15 years in a row



Top 10 for Overall Diversity
2021



WILEF Gold
Standard Firm—8 years in a row



MCCA™

MINORITY CORPORATE
COUNSEL ASSOCIATION
THOMAS L. SAGER AWARD
2020

OUR RESULTS TO DATE

Senior Leadership Team:
58% diverse

Partnership:
42% diverse
15% of colour | 25% female

2021 New Partner Class:
75% diverse

U.S. Lateral Partners over last 5 years:
50% diverse

2021 Summer Associate Class:
88% diverse

Contact/Sign Up Information

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