

**Prof. Dr. Joseph A. McCahery and Prof. Dr. Erik P.M. Vermeulen**

# Corporate Governance and Innovation

Venture Capital, Joint Ventures, and Family Businesses (PART I)



# Setting the Theme

Part I:

*Forms of Finance – Contractual Arrangements*

Prof. Dr. J.A. McCahery

Part II:

*Legal Infrastructure to Innovation*

Prof. Dr. E.P.M. Vermeulen



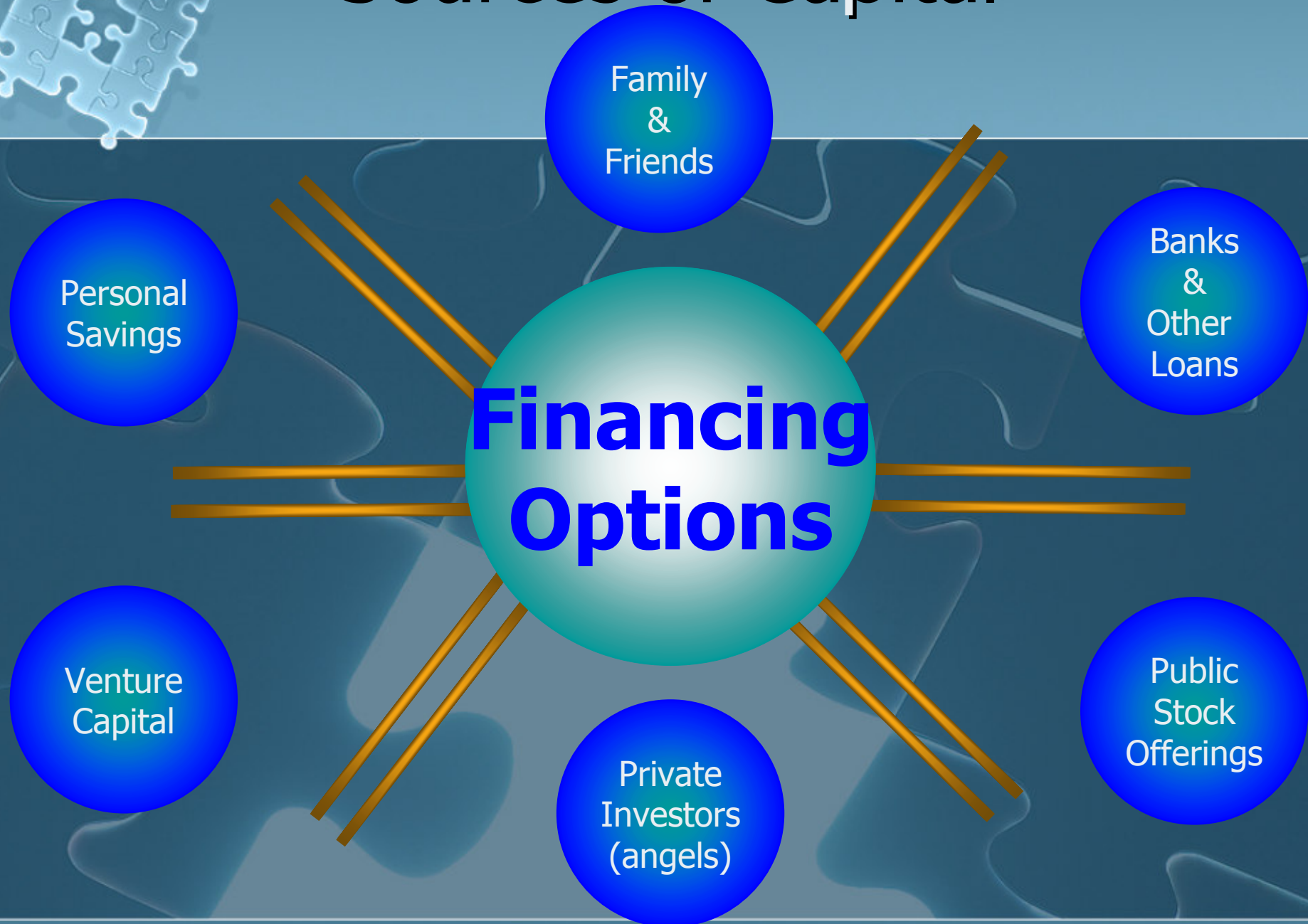
# Part I: Financing Non-Listed Companies

***Creditor  
Protection***

**Financing  
Options**

***Investor  
Protection***

# Sources of Capital



# Debt v. Equity

## Innovative Start-ups?

Venture  
Capital  
=  
EQUITY

Loans  
=  
DEBT

Investor

Ownership

Entrepreneur

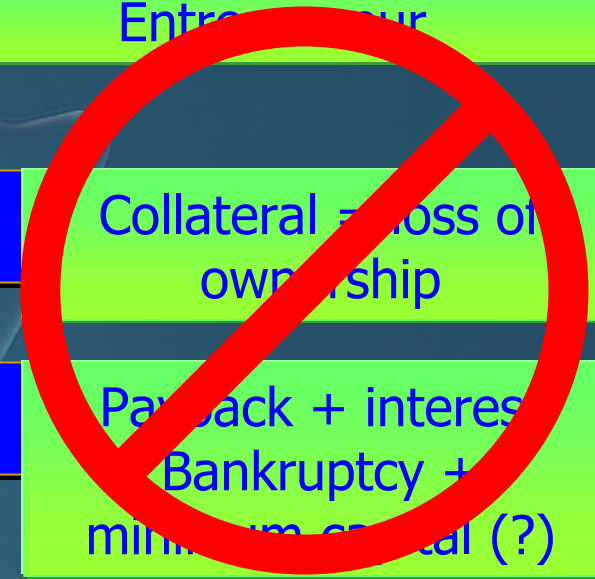
Investor needs legal (contractual) and non-legal (reputation) mechanisms in order to align investors and founders interest

Adverse Selection

Collateral = loss of ownership

Moral Hazard

Payback + interest  
Bankruptcy + minimum capital (?)

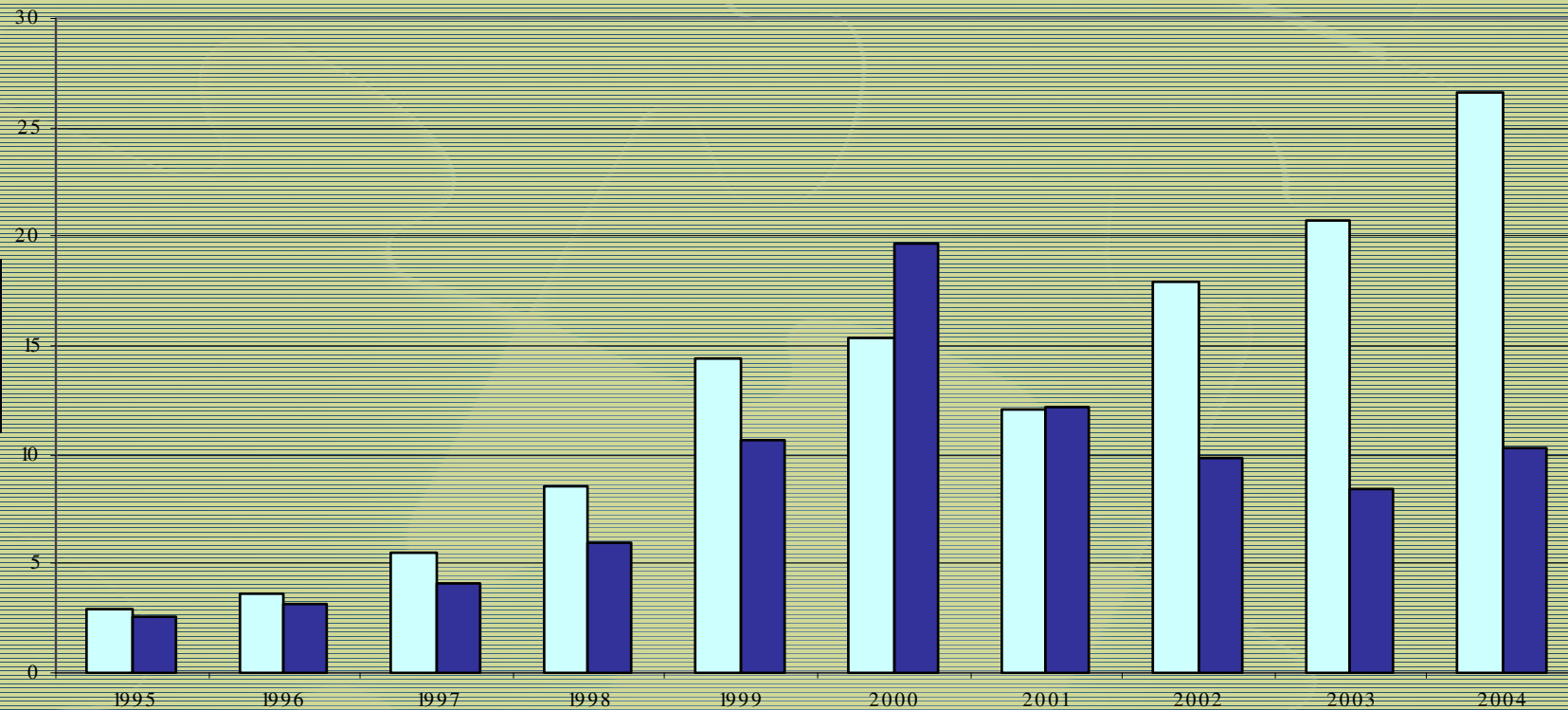




# Risk Capital Invested

**In Europe by stage 1995-2004**

□ Buyout    ■ Venture Capital

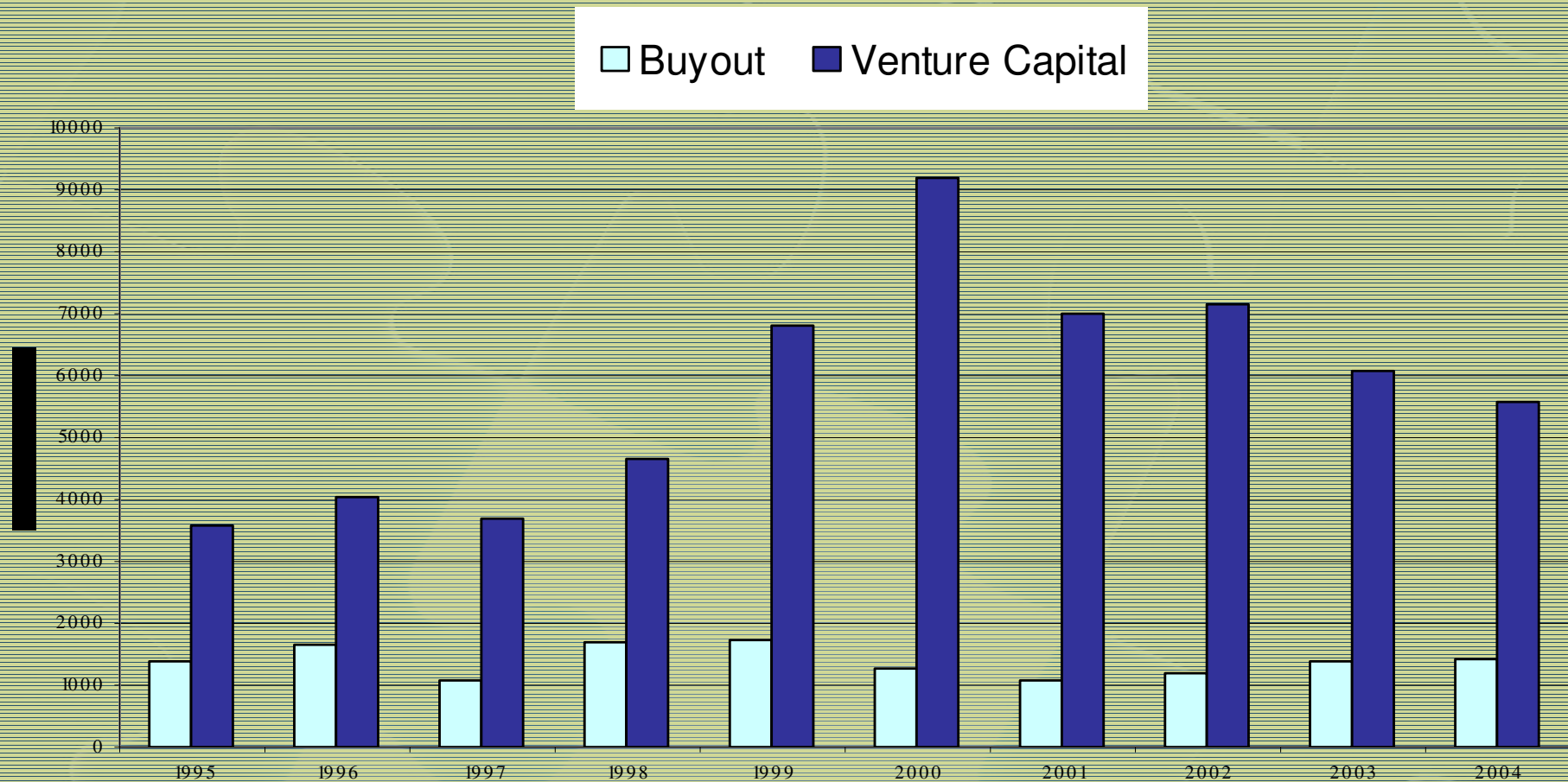


*Source: CEFS/EVCA – Employment Contribution of Private Equity and Venture Capital in Europe – November 2005.*



# Number of Companies Invested In

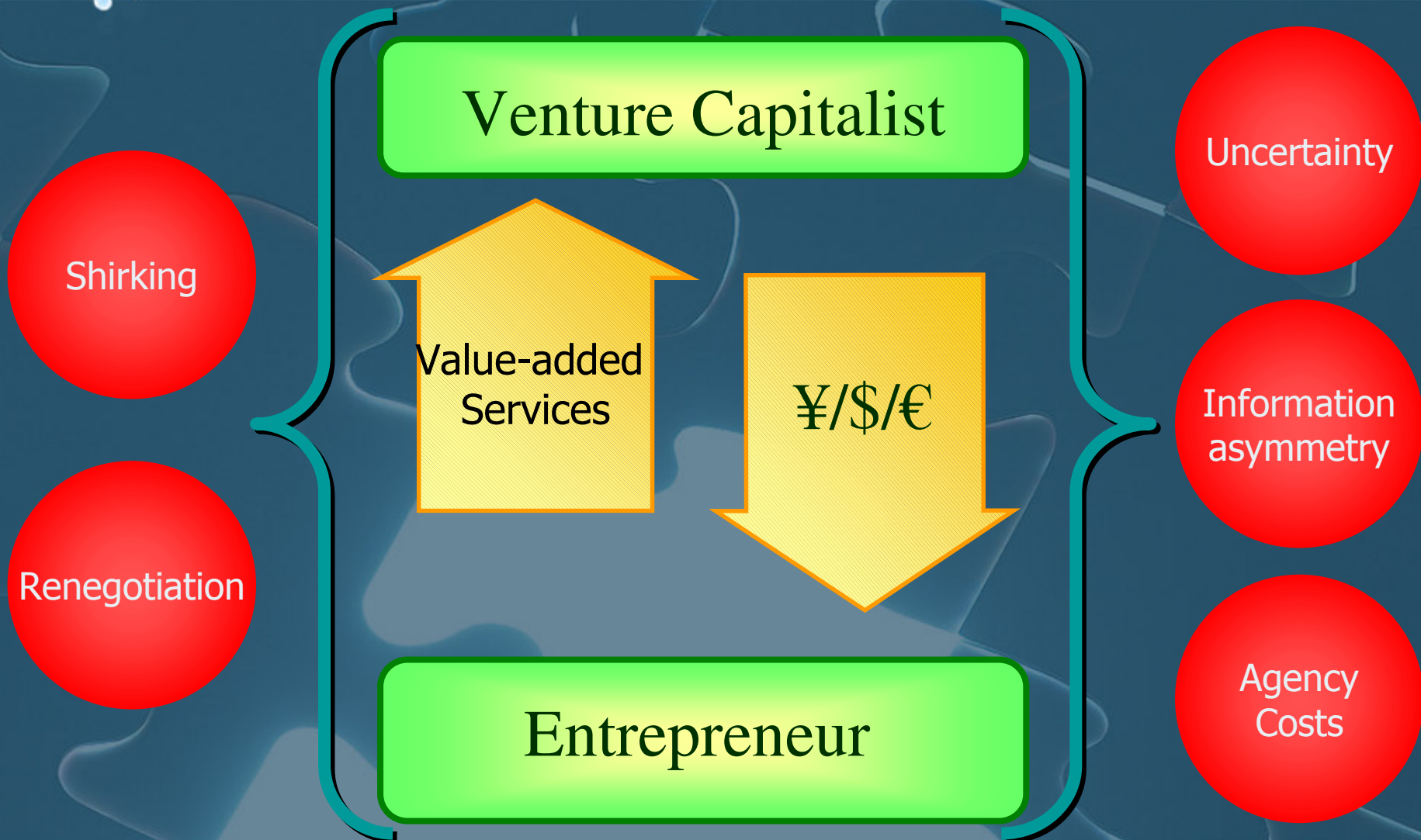
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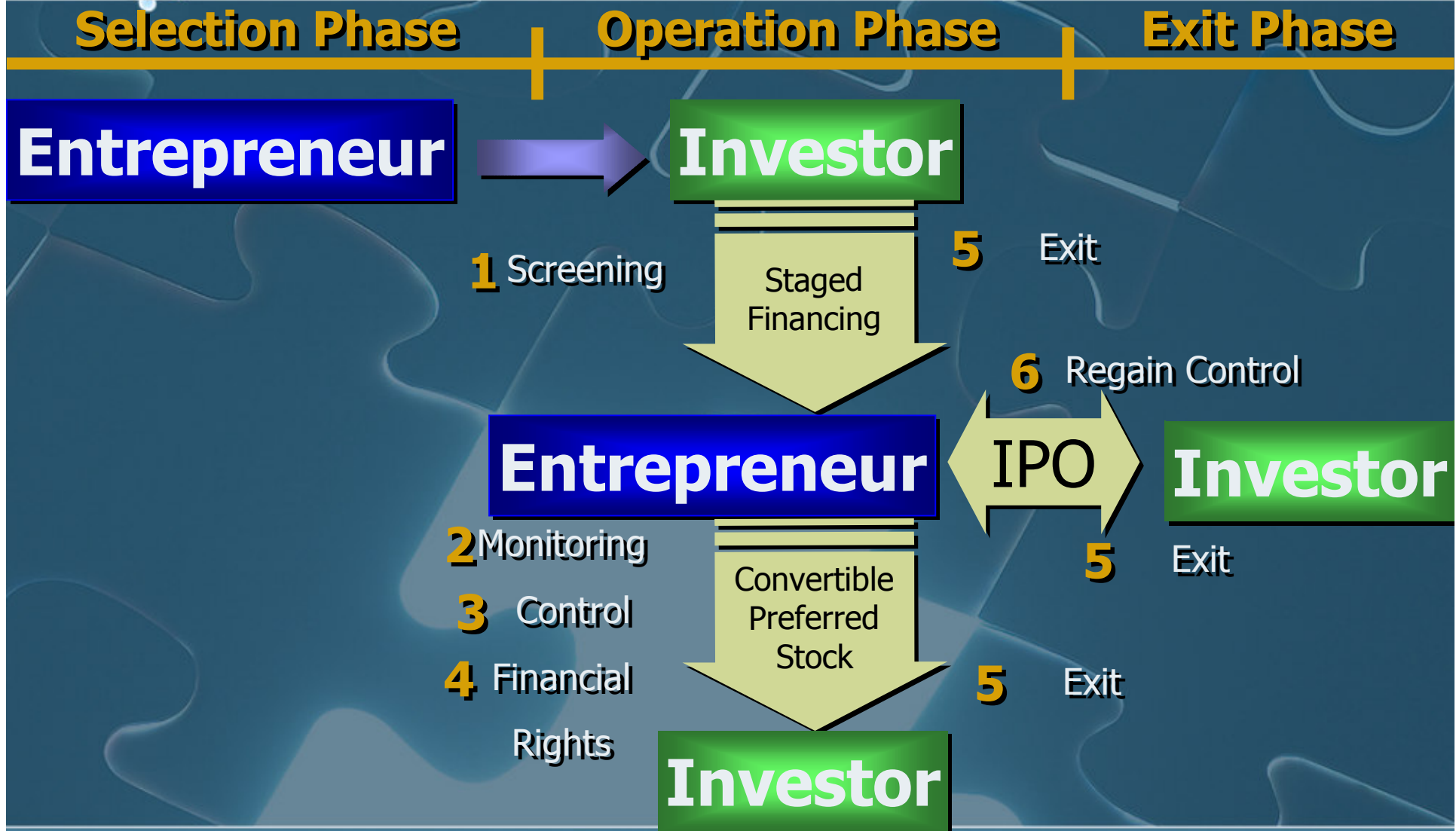


# Double-sided Moral Hazard Problem



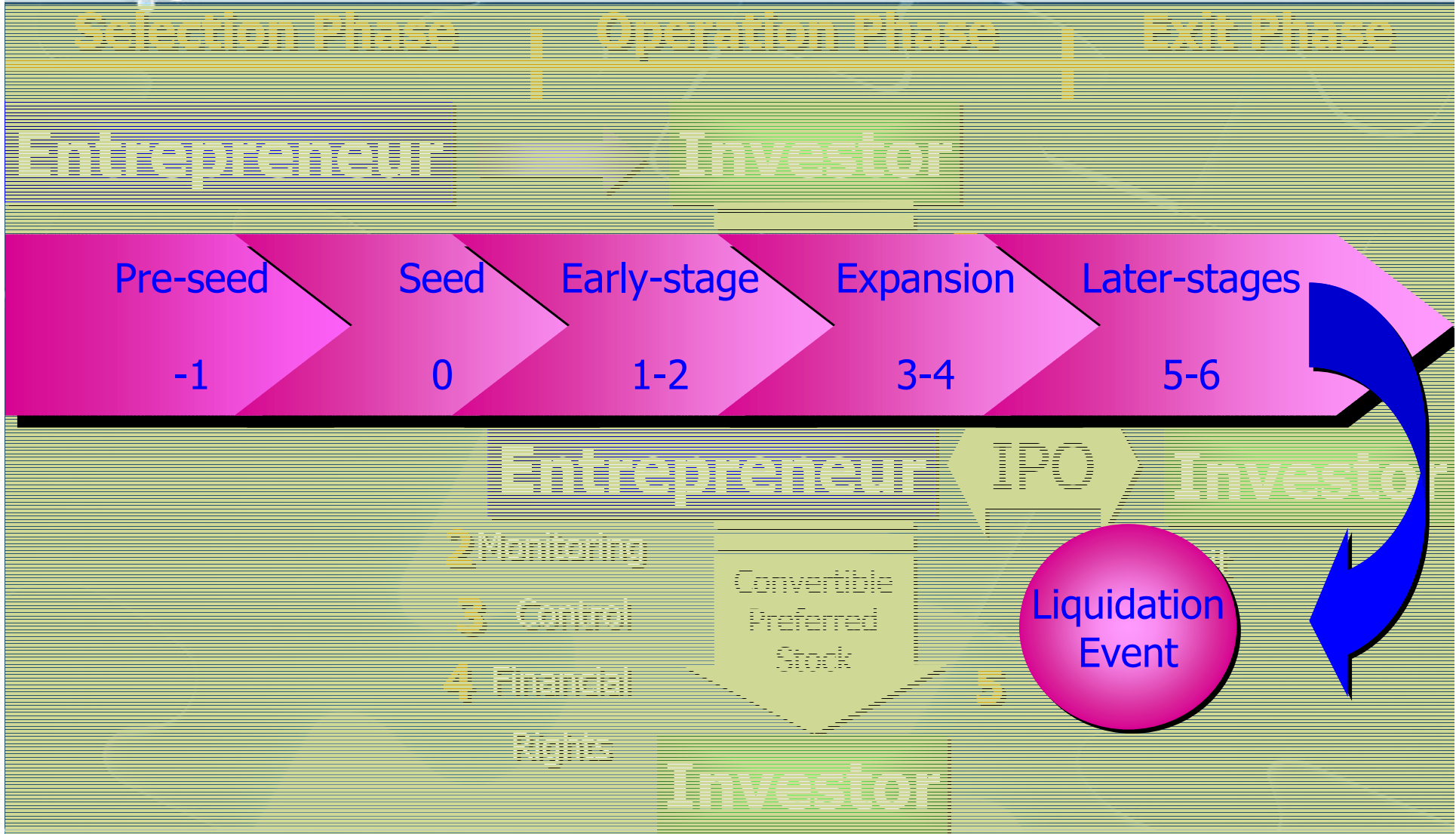


# Venture Capital Architecture





# Staged Capital



# Term Sheet: Convertible Preferreds

Dividend Rights  
Liquidation Pref.  
Redemption  
Conversion Rights  
Antidilution  
Voting Rights  
Board Rep.  
Protective Prov.  
Info Rights  
Rights of 1<sup>st</sup> Offer

MEMORANDUM OF TERMS FOR PRIVATE PLACEMENT OF  
SERIES B PREFERRED STOCK OF  
BIOTECH INCORPORATED



# Exit Strategies

IPO

Trade Sale

Re-purchase

Reorganization

Liquidation

EXIT

Selection Phase

Creation Phase

Exit Phase

Entrepreneur

Investor

Staged Financing

Entrepreneur

Monitoring

Convertible Preferred Stock

Investor





# Asset Securitization

*OPTIMIZED*

New Method of Financing  
Strengthens the financial  
infrastructure to enhance  
the economy

*SPV*



# Asset Securitization

***ORIGINATOR***

**Sale of  
Assets**

***SPV***

**Sales of bonds or  
commercial papers  
with shares in return**

***INVESTORS***



# Asset Securitization

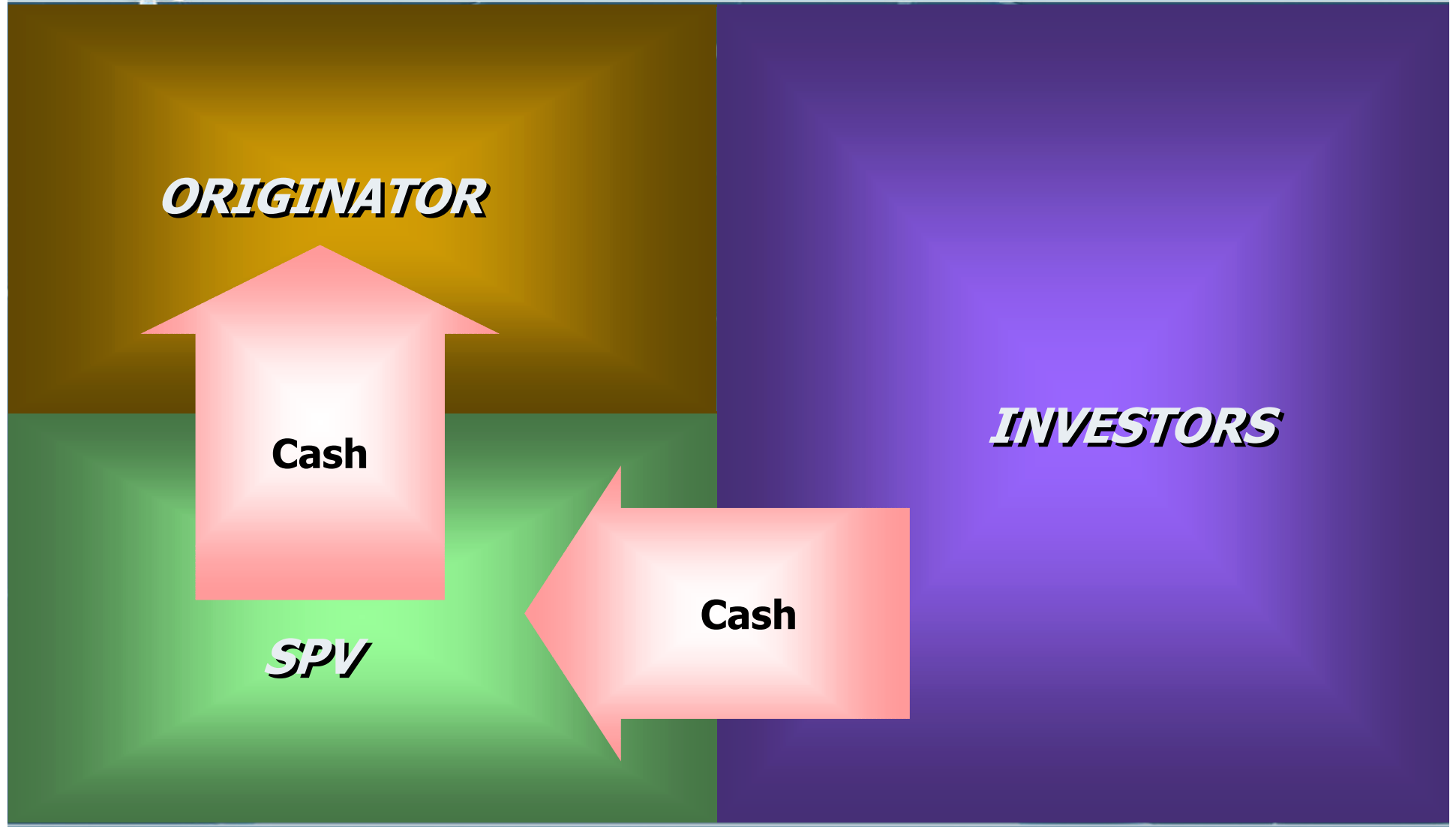
***ORIGINATOR***

**Cash**

***SPV***

**Cash**

***INVESTORS***





# Advantages of Securitization

***ORIGINATOR***

On-going sale of  
assets possible

No impact on  
client relationship

Diversification of  
funding sources

Off-balance sheet treatment

Cost efficient

***SPV***

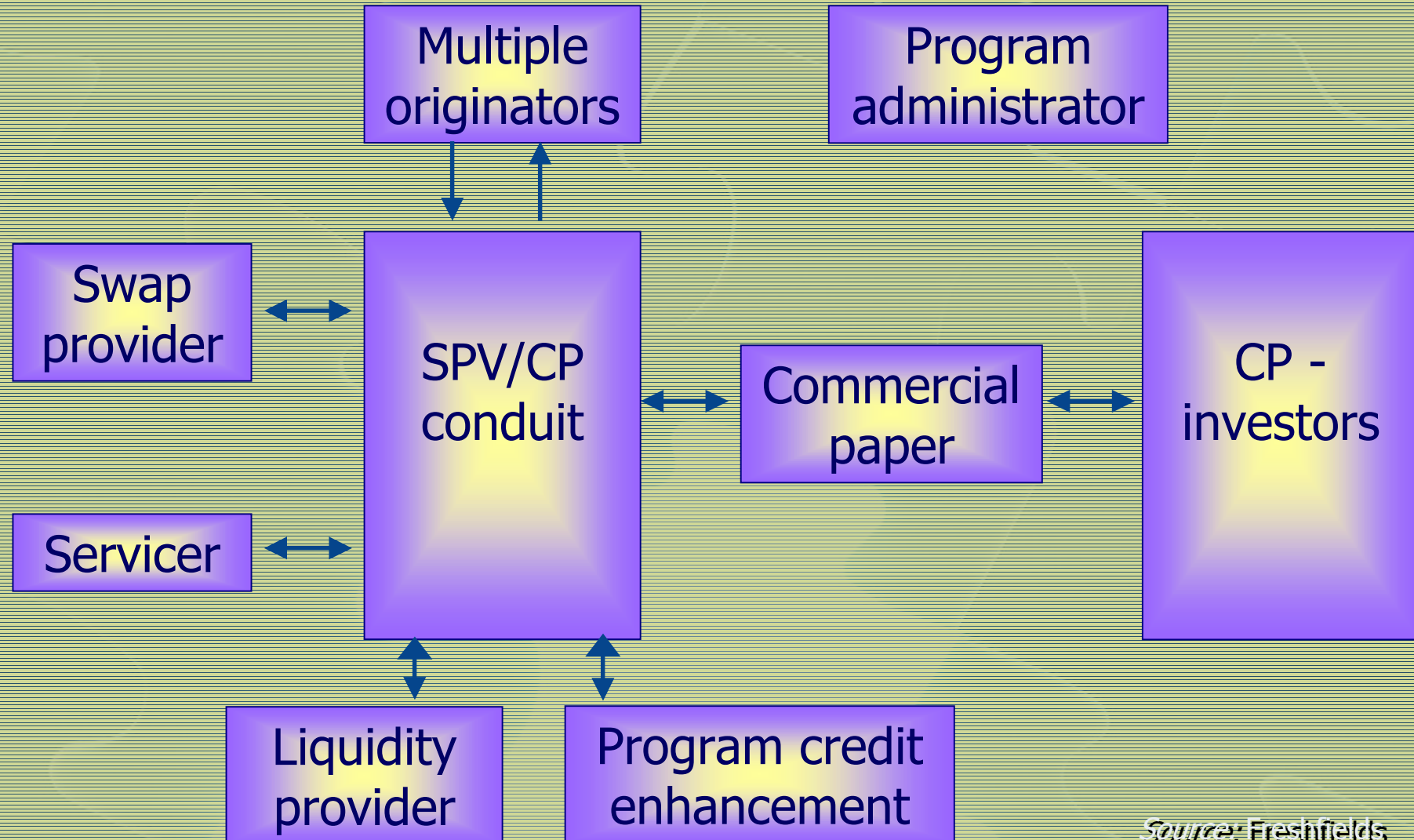
Asset/Liability Management

Increase of liquidity





# Example





# Conclusion

Debt

Asset-Backed  
Securitization

Equity



**Thank you!**

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