

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

Corporate Governance and Innovation

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



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

"Company Law" in Historical Perspective

1200 1300 1400 1500 1600 1700 1800 1900 2000

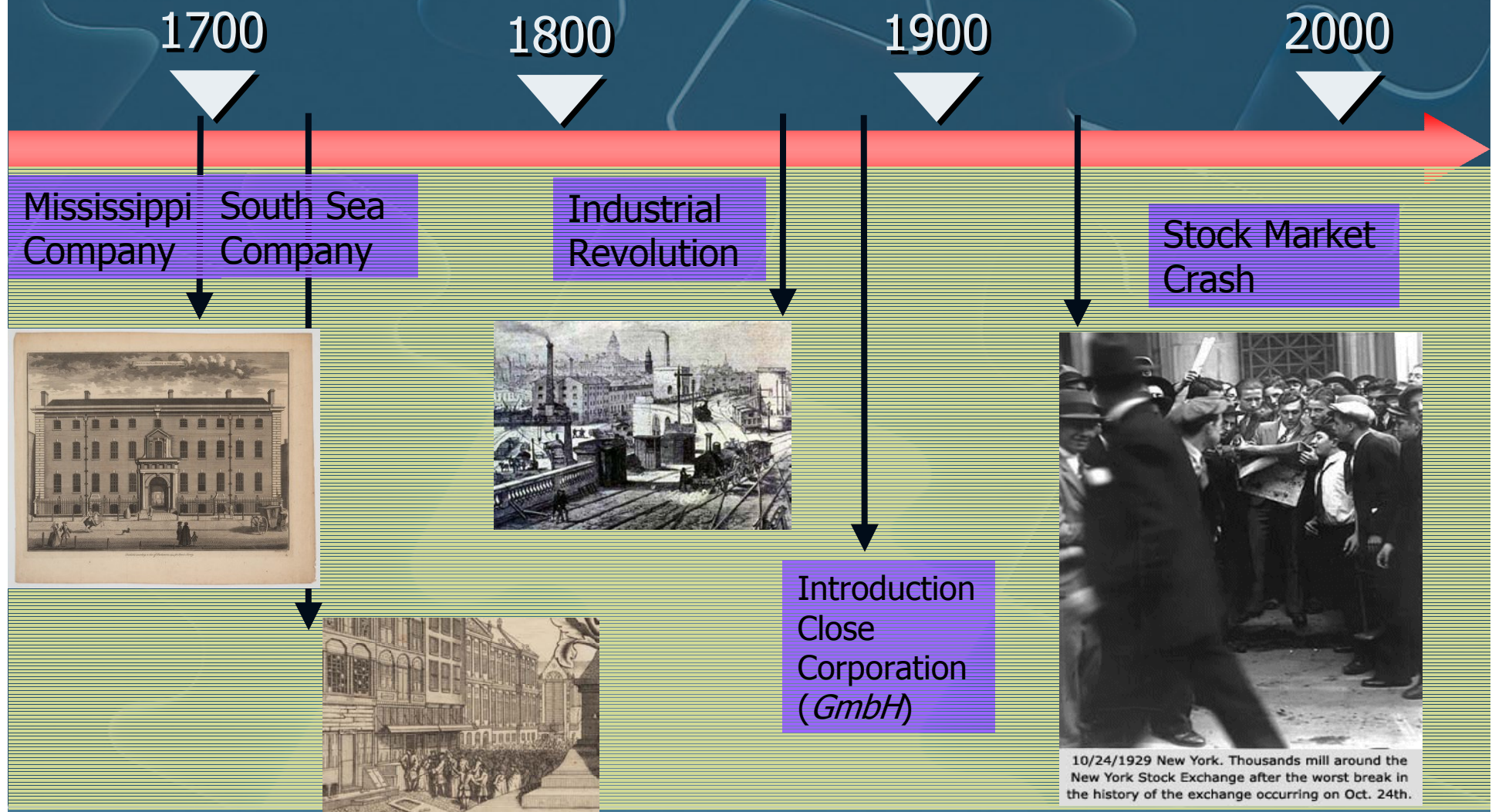
Commenda



Dutch East Indian Company (VOC)



"Company Law" in Historical Perspective





"Company Law" in Historical Perspective

1975

1980

1990

2000

Introduction US LLC

"Check-the-Box" (US)

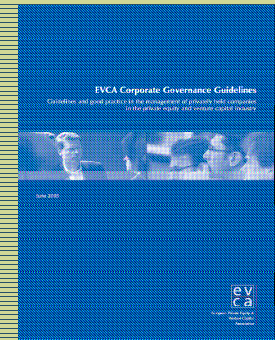
Introduction US LLP

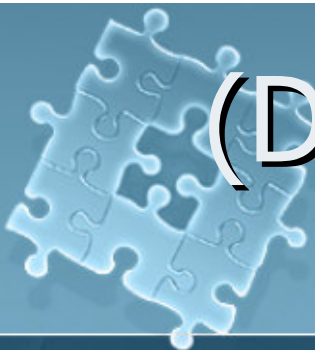
Introduction France
SAS

Corporate
Governance Failures
Internet Bubble

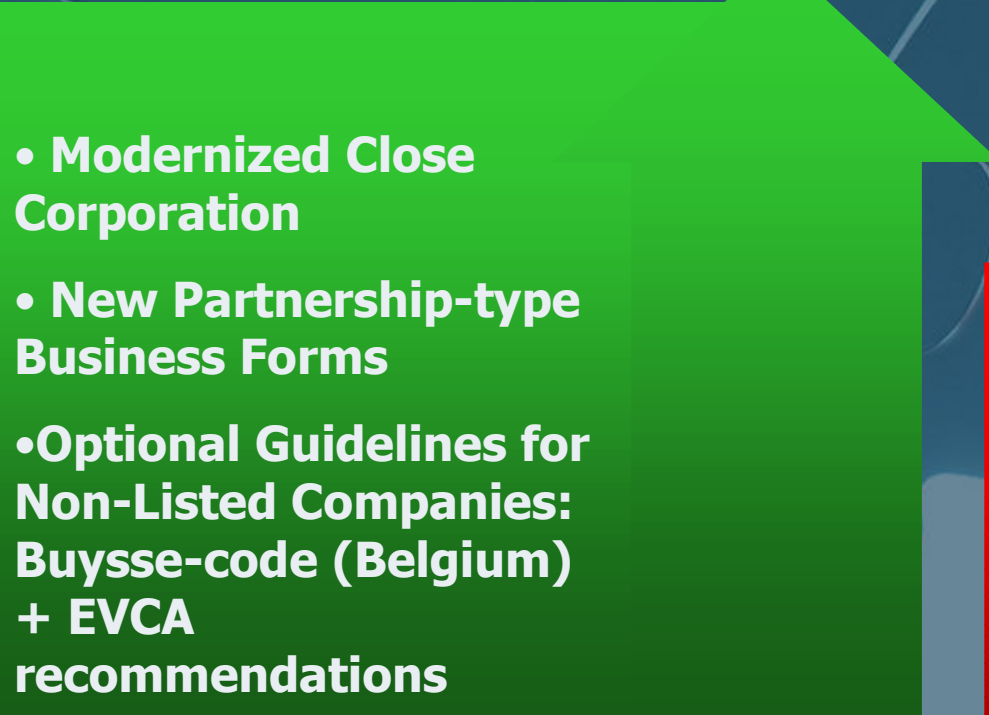
Introduction UK LLP

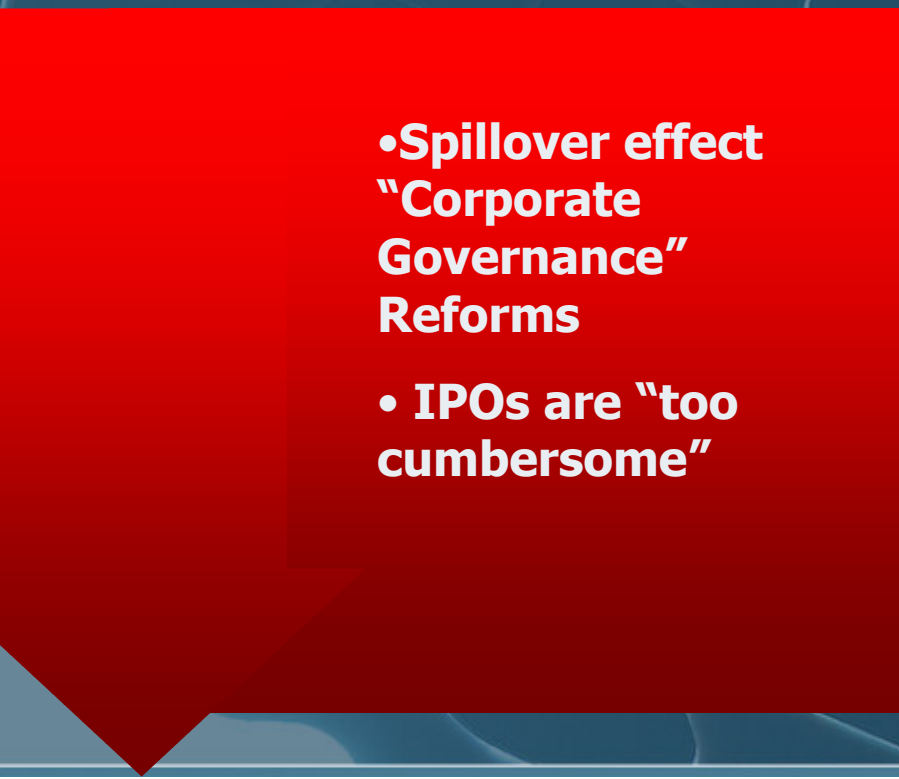
CG of NLCs
J-LLP





(De-)Regulatory Environment Non-Listed Companies

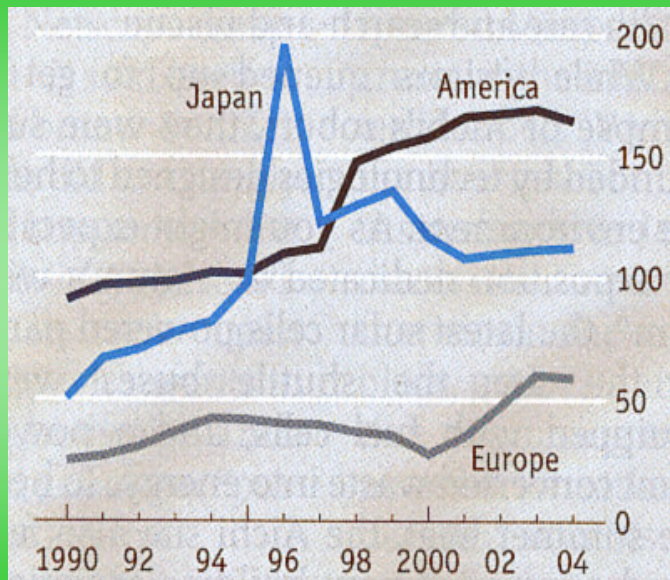
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- **Modernized Close Corporation**
 - **New Partnership-type Business Forms**
 - **Optional Guidelines for Non-Listed Companies: Buyse-code (Belgium) + EVCA recommendations**

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- **Spillover effect “Corporate Governance” Reforms**
 - **IPOs are “too cumbersome”**

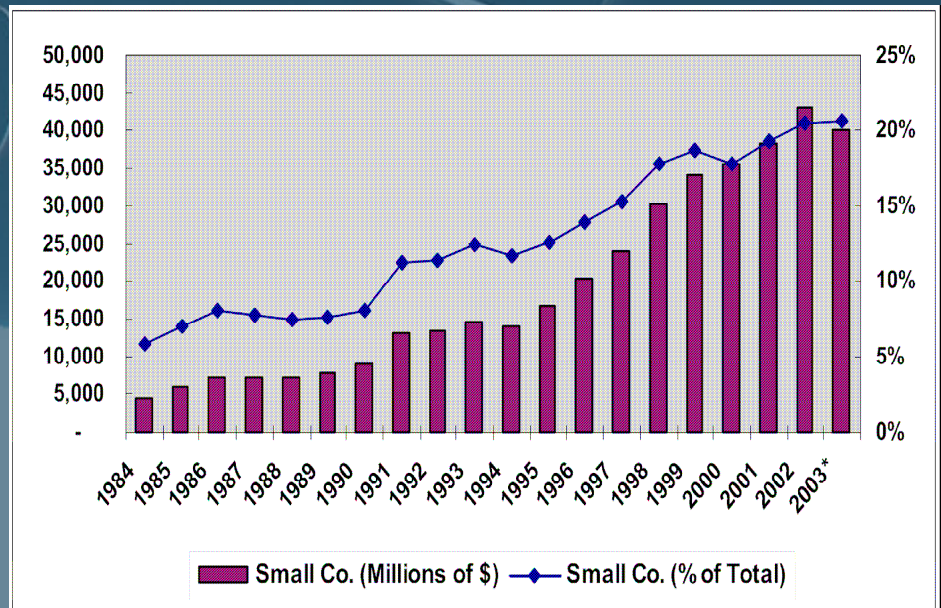


Innovation in the Deregulatory Era

Patents awarded (x1000)



Small Company Contribution to R&D



Source: Economist and
Venture Impact 2004

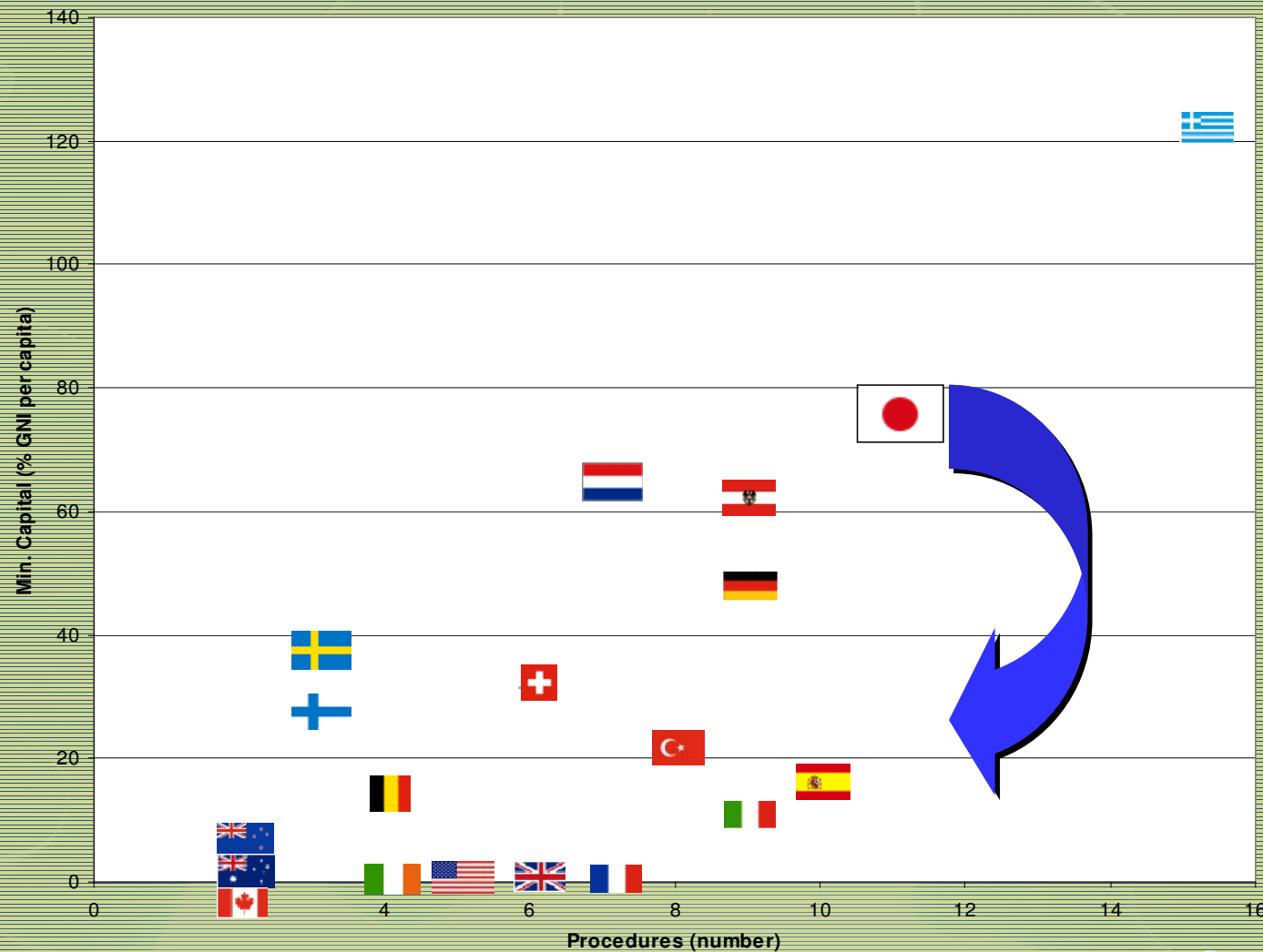


Entrepreneurial Environment: Corporate Governance

- Deregulation of Entry
- Internal Governance Structure
- Governance Best-Practices



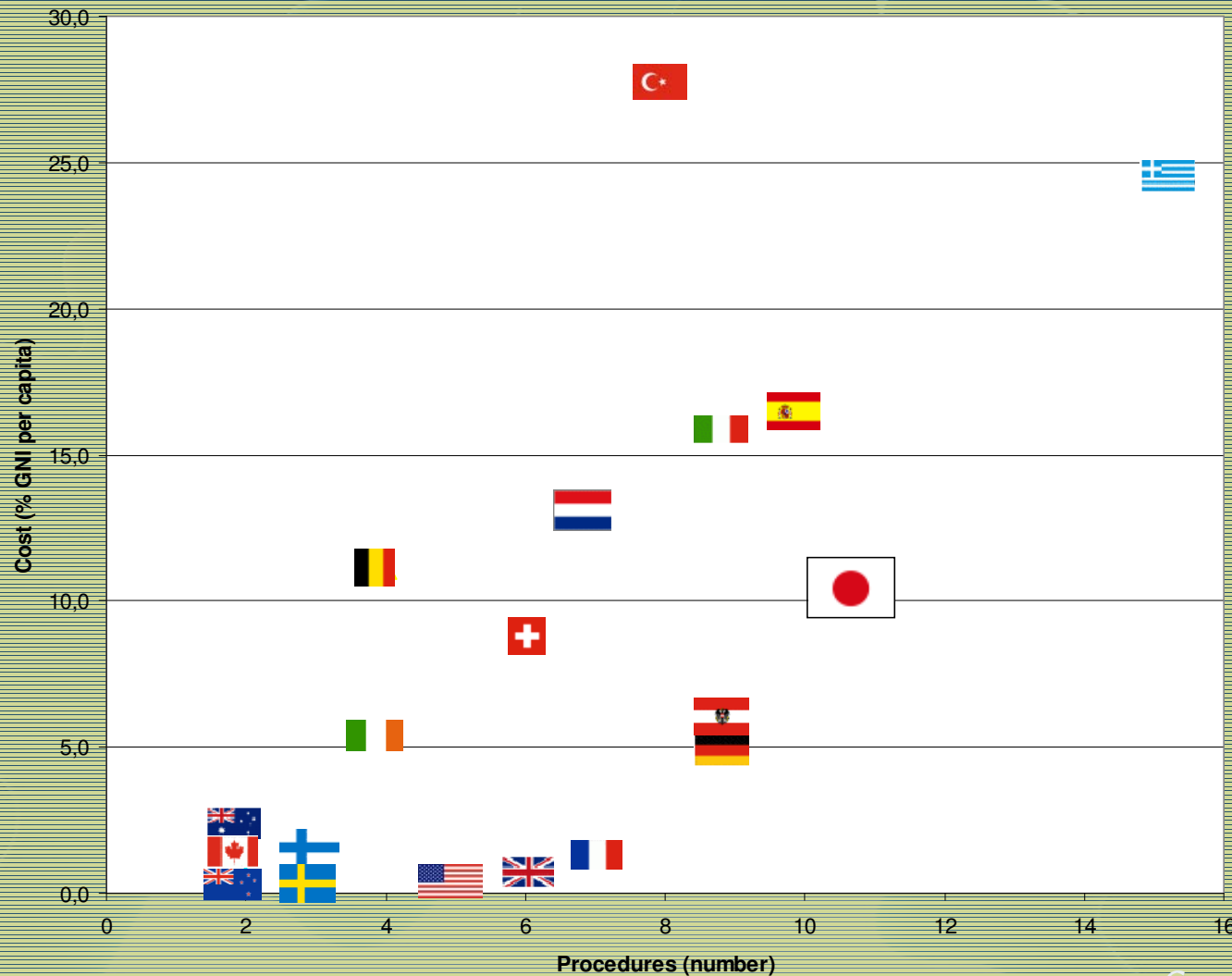
Deregulation of Entry: Minimum Capital Rules



Source: IFC-WorldBank



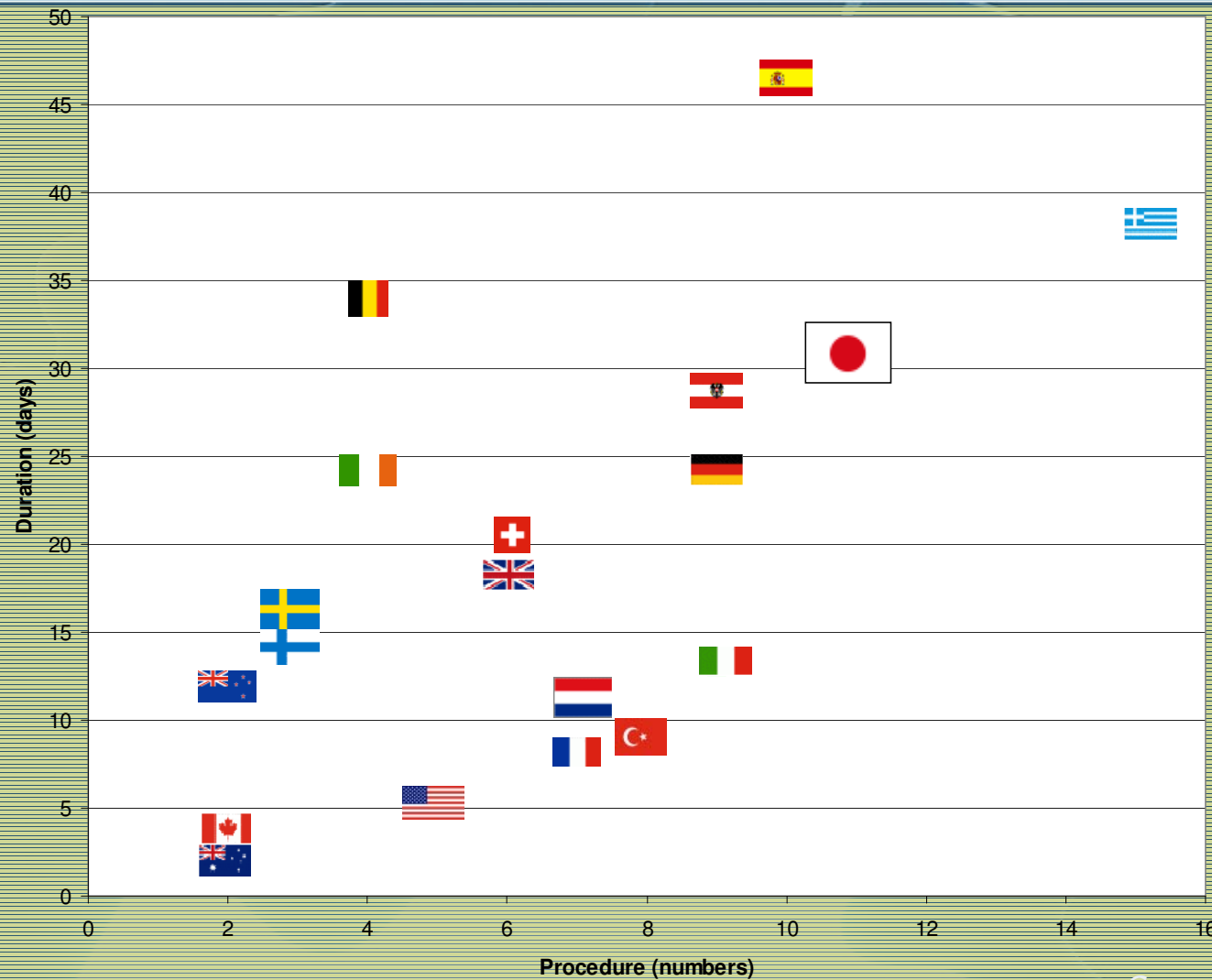
Deregulation of Entry: Start-up Costs



Source: IFC-WorldBank



Deregulation of Entry: Time



Source: IFC-WorldBank

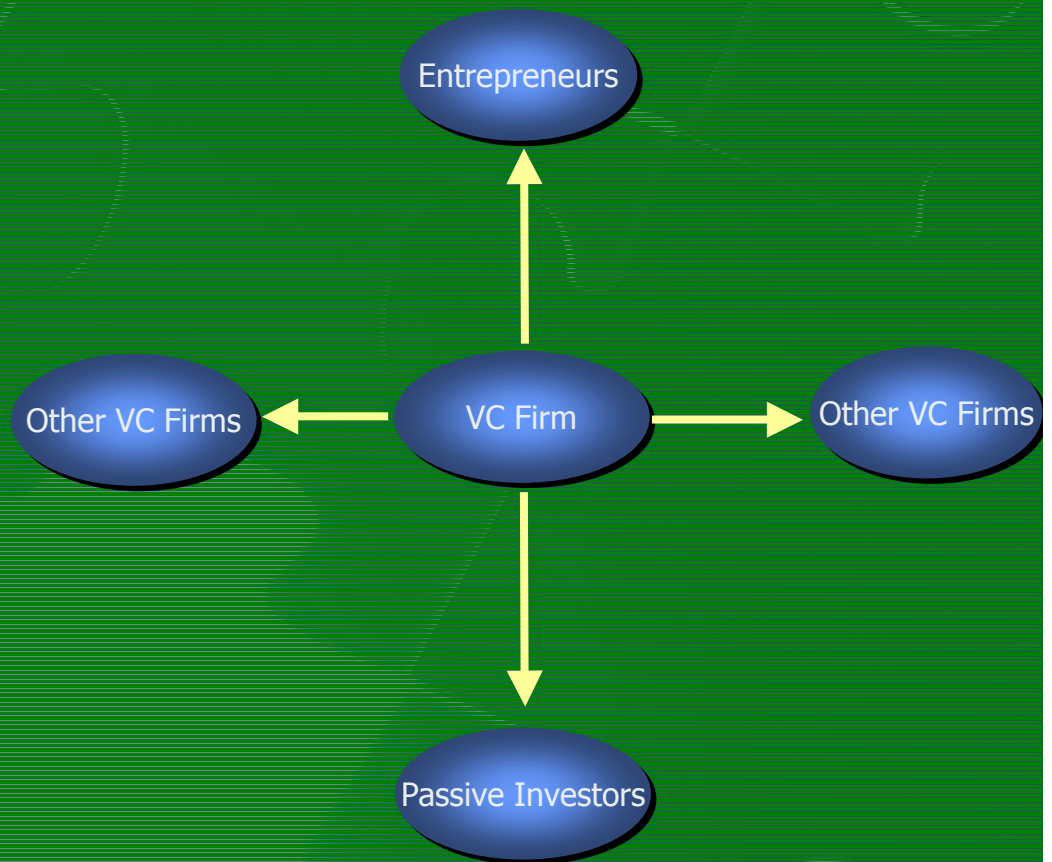
But Focus on “Entry” alone is not sufficient

Joint Ventures



Source: Wallace - Partnerships

Venture Capital



Source: HBS



Company Law Strategies for Protecting Principals

Ex ante

**Menu of Business
Forms**

Ex Post

Principal (e.g., Venture Capitalist and “Majority in Partnerships”)

*Agent Constraints Rules
*Affiliation Terms-Entry
*Appointment Rights-Selection
*Decision Rights-Initiation
*Trusteeship

Limited Liability
Partnership

Limited Liability
Company

(Close) Corporation

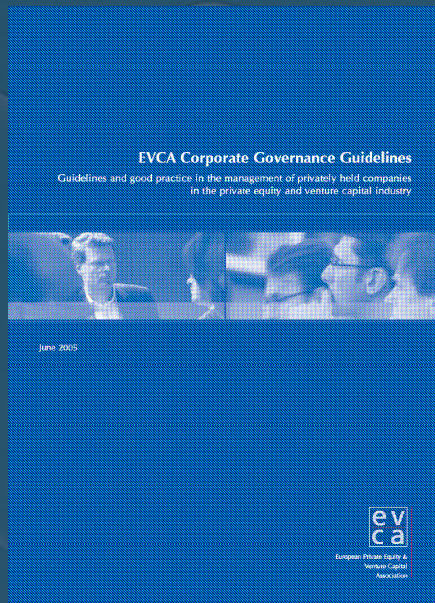
Limited
Partnership

*Agent Constraints Standards
*Affiliation Terms-Exit
*Appointment Rights-Removal
*Decision Rights-Veto
*Reward

Agent (e.g., Entrepreneur and “Minority in Partnerships”)



Optional Guidelines



Best Practices

***Professionalization of
Internal Rights & Duties***

Opt-in Recommendations

Education/Awareness



Looking Ahead

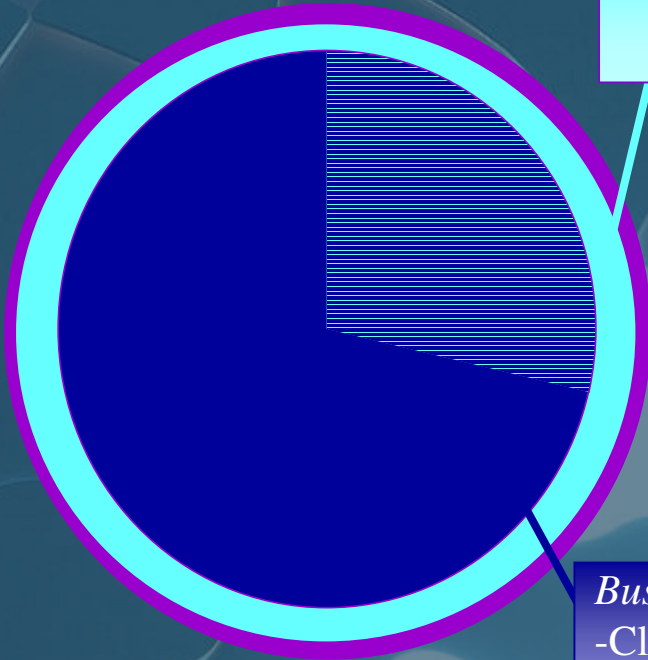
OPTING IN: Corporate Governance Principles



Further Research Necessary



Increased Attention Leads to
More Awareness



Business Organization Law:

- Clear & simple (default) rules
- Flexibility
- Minimum of formalism



Thank you!

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