ANNUAL REPORT FOR FISCAL YEAR 2020

Office of the Advocate for Small Business Capital Formation

U.S. SECURITIES AND EXCHANGE COMMISSION

ABOUT THIS REPORT + ACKNOWLEDGEMENTS

This annual report of the Office of the Advocate for Small Business Capital Formation for Fiscal Year 2020 is being delivered to the Committee on Banking, Housing, and Urban Affairs of the U.S. Senate and the Committee on Financial Services of the U.S. House of Representatives in accordance with Section 4(j) of the Securities Exchange Act of 1934 (the Exchange Act), as amended by the SEC Small Business Advocate Act of 2016, 15 U.S.C. § 78d(j)(6).

Pursuant to Section 4(j)(6)(D) of the Exchange Act, this Report is provided directly to the committees of Congress without any prior review or comment from the Commission, any commissioner, any other officer or employee of the Commission, or the Office of Management and Budget. It does not necessarily reflect the views of the Commission, the Commissioners, or staff of the Commission.

The work of the Office is possible only through the support of our talented and passionate colleagues across the agency. The Office owes special thanks to our colleagues who provided resources for this Report, including the Division of Economic and Risk Analysis for providing data to quantify the state of small business capital formation and contextualize issues, and the Office of Public Affairs for making our written product for this report visually engaging. We particularly thank the following individuals: Daniel Bresler, Vladimir Ivanov, Andy Kim, Angela Huang, Olga Itenberg, Rey-Er Lee, Wei Liu, Chris Onrubia, Narahari Phatak, Zehra Sikandar, and John Zheng.

Message from the Advocate

2020 is the year that none of us could have predicted. The challenges of the COVID-19 pandemic have been—in a word—disastrous for small businesses. Since March, our team has been fully engaged in supporting small businesses and their investors as they navigate new waters: closed doors, loss of foot traffic, sudden drops in revenue, changing consumer behavior, and of course challenges in raising capital.

Many have commented on the incredible companies that rose from the ashes of the last recession, some of whom have become household names and created significant wealth for their investors. I am optimistic about the entrepreneurs who envision new companies borne out of this pandemic, as well as the success stories of some companies and sectors who are thriving. However, I am also keenly aware of the present day needs of the myriad of small businesses working to navigate a winding path out of this COVID-19 maze. Access to investor capital will no doubt be a critical element in success for many who weather the current challenges.

In addition, 2020 has cast a brighter spotlight on the racial inequities that permeate our society, and as a result, our markets. Focusing on the unique challenges faced by underrepresented founders and their investors is hardwired into our Office's mission. While we by no means view access to investor capital as a panacea cure to a systemic challenge, it is clear that minorities and women are not on level playing field with obtaining funding, a topic meriting further examination and action.

Much like last year's inaugural annual report,[1] this year's report highlights how we have approached our mission over the past fiscal year, complemented by an even more robust State of Capital Formation section that paints the picture of how capital is being raised and by whom, and begins an exploration of the impacts of the COVID-19 pandemic.

Our team commends the Commission for its recent actions to support capital formation, and we look forward to continuing to collaborate on practical solutions that support those who need us most: our small businesses and their invaluable investors.

MARTHA LEGG MILLER
Director
Office of the Advocate for Small Business
Capital Formation

Breaking Down Our Long Title

An independent office housed within the U.S. Securities and Exchange Commission, created by Congress via special legislation

One called to use your voice for others, derived from Medieval Latin

Office of the Advocate for Small Business Capital Formation

From start-ups to small cap, “small” is relative for the SEC’s newest Office, which supports emerging, privately-held companies up to small public companies

The deployment of productive capital by informed investors to create economic growth

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About the Office

Congress created the Office to provide a dedicated champion to smaller companies accessing critical capital to build, grow, and thrive. The Office operates pursuant to sections 4(j) and 40 of the Securities Exchange Act of 1934 (15 U.S.C. §§ 78d and 78qq), as added by the SEC Small Business Advocate Act of 2016 (P.L. 114-284) and amended by the Small Business Access to Capital after a Natural Disaster Act (title IX of division S of Public Law 115-141) (collectively, the Small Business Advocate Act).[2]

The Office hosted an event at Morehouse College in Atlanta, GA in October 2019 highlighting success stories of entrepreneurs of color.

The Office officially commenced operations in January 2019. As an independent office reporting directly to the Commission, the Office is statutorily charged with the following functions:

- Assisting small businesses and their investors in resolving significant problems they may have with the SEC or with self-regulatory organizations (SRO);
- Identifying areas in which small businesses and their investors would benefit from changes in SEC regulations or SRO rules;
- Identifying problems that small businesses have with securing access to capital;
- Analyzing the potential impact on small businesses and their investors of proposed SEC regulations and SRO rules;
- Conducting outreach to small businesses and their investors to solicit views on capital formation issues;
- Proposing appropriate regulatory and legislative changes to the SEC and Congress to mitigate problems identified with small business capital formation and to promote the interests of small businesses and their investors; and
- Consulting with the Investor Advocate on such regulatory and legislative changes and other small business issues.

The Office also proactively works to identify any unique challenges faced by minority-owned, women-owned, rural, and natural disaster area small businesses and their investors.

Our Advocacy Team

MARTHA LEGG MILLER
Director

SEBASTIAN GOMEZ ABERO
Deputy Director

DEAN A. BRAZIER, JR.
Special Counsel

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JESSICA W. MCKINNEY
Special Counsel

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Policy Manager

MALIKA SULLIVAN
Executive Assistant

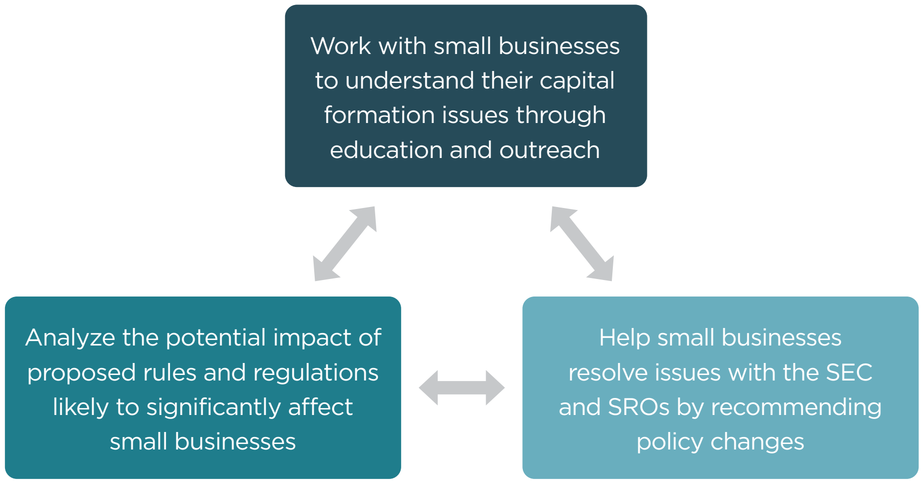
TODD VANLAERE
Law Clerk

Scope of Small Businesses

The Office supports a spectrum of small businesses and their investors, from emerging, privately-held businesses to publicly traded companies with less than $250 million in public market capitalization.[3] Based upon commonalities in sources of capital and issues faced, the Office has segmented its target market into three categories of businesses and their corresponding investors: small and emerging businesses, mature and later-stage businesses, and small public companies.

Our Mission

The Office's mission is to advocate for small businesses and their investors to foster better access to capital markets, strengthening the voice of small business within the SEC and the broader regulatory landscape.



Core Tenets

The Office adheres to the following core tenets in approaching its delivery of services and solutions to small businesses and their investors:

- Small businesses are job creators, generators of economic opportunity, and fundamental to the growth of the country.
- One size does not fit all for small businesses.
- Good work has been done by the SEC, but we are not done and should continue to evolve as the market demands.
- Small business policy should facilitate trust and confidence in capital markets to encourage efficient allocation of investment dollars.
- We serve as a collaborator with, and contributor to, other SEC divisions and offices and SROs, not as an auditor.

Values

The Office is guided by four core values:

- ACCESSIBILITY — We engage with both small businesses and their investors, as well as with the SEC, SROs, Congress, and other agencies on a regular basis through a variety of channels.
- TRANSPARENCY — We are visible and open in our approach to supporting small businesses and their investors.
- PRAGMATISM — We approach problems with a solution-oriented mindset by making practical recommendations.
- EFFICIENCY — We operate like a lean start-up, maximizing resources and focusing activities where the Office can have a measurable impact.

Highlights from Fiscal Year 2020

In addition to hundreds of meetings, phone calls, emails, and cups of coffee shared with individuals across the small business ecosystem, we have sought out opportunities to engage with diverse groups of small business thought leaders—our Office's customers—through events and speaking engagements, that can reach broad networks of potential beneficiaries of our Office's products, programs, and services. Some of the events in which we have engaged this year include:

National Veterans Small Business Coalition. Keynote address on trends and opportunities for Veteran entrepreneurs and solicitation of feedback.

Office joins Inside the Icehouse for first podcast recording.

Keynote address at National Venture Capital Association's Strategic Operations & Policy Summit.

HBCU Outreach Event at Morehouse College. Panel discussion on best practices for minority businesses to attract investment capital.

California Bay Area Listening Tour. Attended AfroTech, met with founders, investors, and other key players in early-stage and growth capital infrastructure.

Joined Institute of Management Accountants Small Business Committee Meeting to discuss top accounting issues faced by advisors to small businesses.

Office hosts its first Capital Call styled after earnings release calls to explore inaugural annual report.

Roundtable with Miami entrepreneurs and investors on raising capital in partnership with the Miami-Dade Beacon Council.

Kenan Institute Frontiers of Entrepreneurship Conference. Panel discussion with academics and thought-leaders on JOBS Act and small business capital formation.

Brookings Institution's "The Devaluation of Businesses in Black Communities" - panel discussion on challenges faced by business owners in minority communities in accessing capital.

Q1 FY2020

Q2 FY2020

Q3 FY2020

Virtual Coffee Break: Online Investment Capital Raising. Discussion for small businesses and investors considering new strategies to bridge their networks.

Workshop with iFundWomen to walk through pathways available to access investment capital.

Virtual Coffee Break with National Small Business Association. Discussion with businesses from a wide range of industries on what they are seeing in the market.

Virtual Coffee Break with National Diversity Coalition and U.S. Small Business Administration. Discussion on how COVID-19 is impacting raising capital.

Keynote speech at Angel Capital Association Summit. Discussion with angel investors from across the country.

Entire SEC Small Business Forum conducted virtually.

Q4 FY2020

Virtual Policy Discussion: Policy and Business with Middle Market Private Companies & Late-Stage Investors. Discussion on how to lead in crisis and position a company for growth.

Virtual Coffee Break with New America Alliance. Discussion with entrepreneurs dedicated to advancing economic development of the American Latino community.

Virtual Panel Discussion on Small Businesses in the Public Markets. Discussion on the experience of small, public companies traded over the counter.

Virtual Coffee Break with the National Association of Securities Professionals. Discussion and solicitation of feedback on inclusion in the financial services industry.

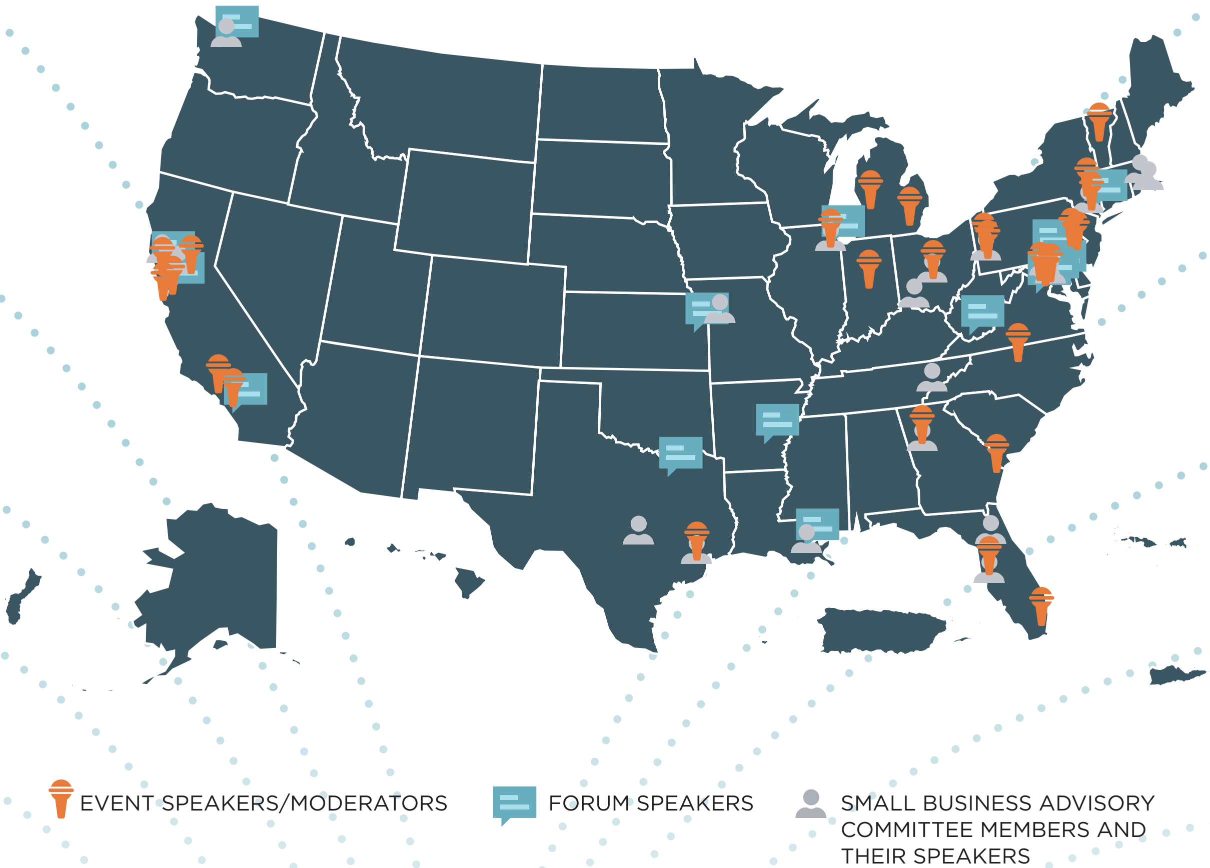
WOCStars and Superwomen podcast interviews with the Office air.

Virtual Coffee Break with StartOut. Discussion of issues encountered by LGBTQ+ entrepreneurs and data on impacts of exclusion.

Outreach and Engagement

Through public events, we hear perspectives from across the United States on topics ranging from rulemakings, to changing trends in capital raising, to unique challenges and opportunities of demographic groups and different geographic regions. Our outreach and engagement inform the Commission's policymaking process by engaging directly with small business ecosystem participants who are navigating our regulatory requirements to provide timely, practical feedback.

Our events featured speakers with diverse backgrounds from coast to coast:



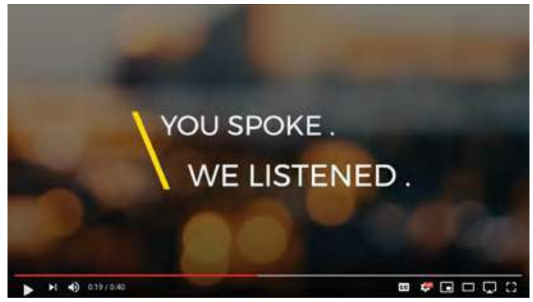
With a shift to virtual events in 2020 in response to COVID-19, we were able to broaden our engagement to reach participants in the capital raising ecosystem

in every state.

Engaging with Video Content

The Office continued producing short executive summary videos that highlight recent changes to the capital formation rules impacting small businesses and their investors. These videos have made what are otherwise often complex rules more accessible to small businesses and their investors, who in a few minutes can evaluate the potential impact of rules and whether they would like to engage more deeply in the comment process. Some of the Office's FY2020 videos include:

Accredited Investor Amendments

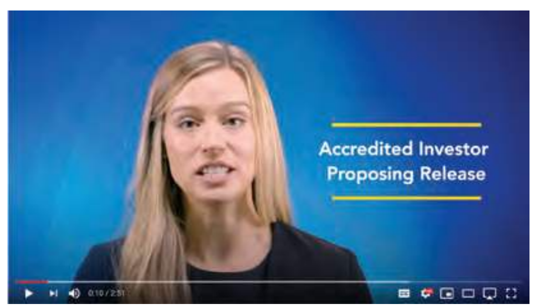


COVID-19 Crowdfunding Relief

Accelerated Filer Amendments (Sarbanes-Oxley Rule 404(b))

Capital Formation Proposal

Modernizing the Rule Governing Quotations for Over-the-Counter Securities (Rule 15c2-11)



Accredited Investor Proposal

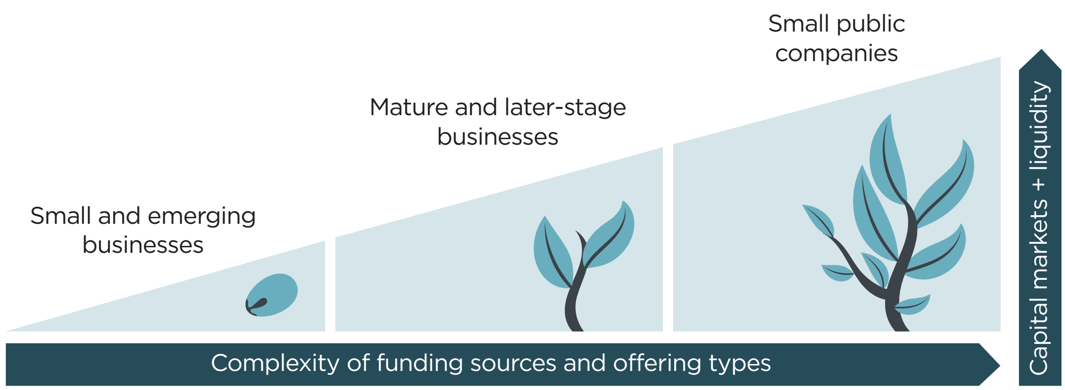
Small Business Forum

The Office hosted the SEC's 39th annual Government-Business Forum on Small Business Capital Formation completely virtually on June 18, 2020. The Forum is a unique event where members of the private and public sectors gather to craft suggestions for securities policy impacting emerging businesses and their investors, from startups to smaller public companies. The Office assumed responsibility for the Forum beginning in 2019 under the Small Business Advocate Act. The 2020 virtual Forum resulted in an inclusive event that engaged entrepreneurs, investors, market participants and other thought leaders from across the country. Video archives of the keynote addresses and spotlight discussions are available in the Office's Forum video gallery. On September 14, 2020, the Forum report was released and delivered to Congress summarizing the proceedings and recommendations of the participants.[4]

Virtual Engagements

In FY2020, our Office sought to supplement our in-person outreach events with broadly accessible virtual events that would allow our Office to engage with businesses, investors, and other market participants across the country. From our Office's first podcast interview to our first Capital Call, we expanded avenues for more voices to be heard.

Following the onset of COVID-19, the Office pivoted outreach strategies in March to engage with the market through an entirely virtual outreach strategy. The Office launched a series of "virtual coffee breaks"[5] aimed at gathering thought leaders to discuss timely topics impacting segments of the capital formation ecosystem and spark engaging and accessible conversations on capital raising challenges.

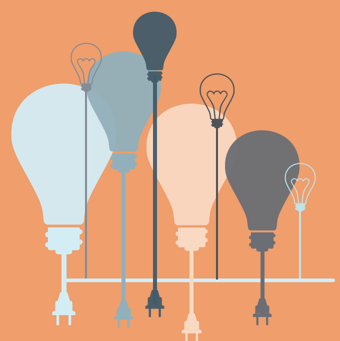


Virtual Engagements FY2020

PODCASTS

- Inside the ICE House: "A Champion for Small Businesses in Washington"
- WOCStars: VCs off the Record: "Say What? The Truth about What the Heck the SEC Really Does"
- Superwomen with Rebecca Minkoff: "Getting Comfortable Working in Ambiguity"

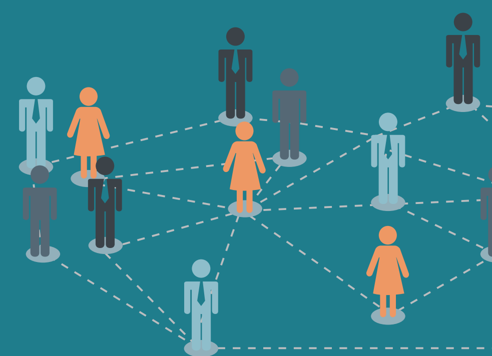
2020 SMALL BUSINESS FORUM



ROUNDTABLES & WEBINARS

The Office presented at a number of roundtables and webinars to solicit feedback and engagement on capital formation. Audiences included:

- Smaller manufacturing companies
- Management accountants working with smaller public companies
- Smaller public funds
- Attorneys to small businesses and their investors
- Entrepreneurship support organizations
- Federal agencies working on capital access for entrepreneurs.



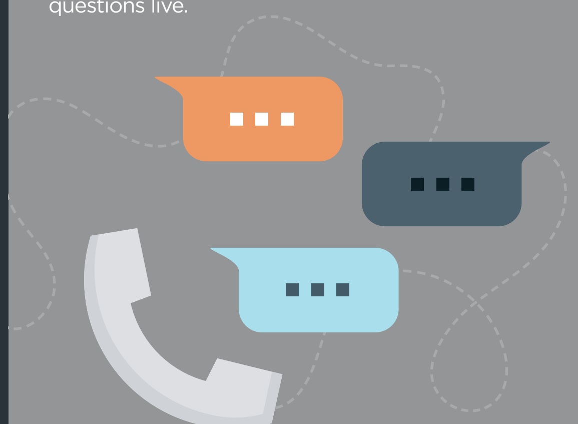
"VIRTUAL COFFEE BREAK" SERIES

10 wide-ranging events featuring:

- Early Stage Startups
- Middle Market Private Companies and Late-Stage Investors
- Smaller Publicly-Traded Companies
- Minority Founders and Investors
- Women Founders and Investors
- LGBTQ+ Entrepreneurs
- Minority Financial Professionals
- Angel Investors

CAPITAL CALL

Styled after public companies' earnings release calls, this virtual meeting covered what is happening with capital raising from startup to small cap and gave the public a chance to ask questions live.

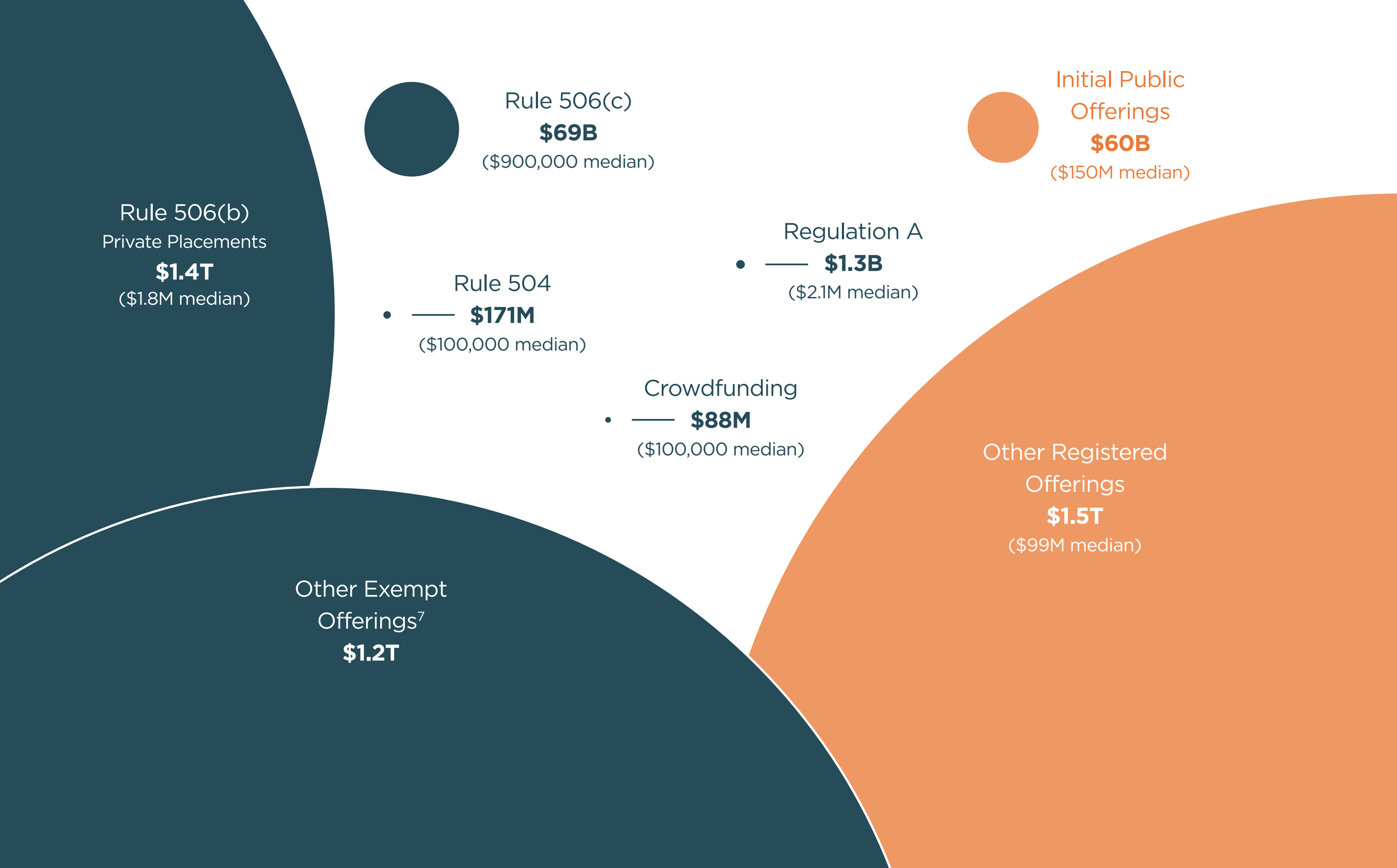


State of Small Business Capital Formation

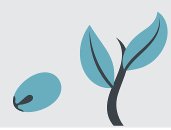
The data provided in this Report is derived from a combination of public filings with the SEC, as analyzed by the SEC's Division of Economic and Risk Analysis (DERA), and is supplemented with figures and findings from third parties. In doing so, we hope to provide a snapshot view of the state of U.S. small business capital formation, amalgamating many important pieces of the capital formation story into one resource to aid in evaluating the current flow of investment capital between small businesses and investors. The data supplements anecdotal evidence and helps quantify the successes and challenges in small business capital formation nationwide. Unless otherwise indicated, the data period utilized for DERA data is July 1, 2019 to June 30, 2020 and covers U.S. businesses only.

New this year, we have highlighted some of the initial reported impacts of COVID-19 that have been felt across the country. In addition, we have expanded the data and analyses on demographic trends. Using data, we can better identify what tools, strategies, and approaches would be most impactful in crafting policy solutions.

What regulatory pathways are companies using to raise capital?[6]



What are the primary types of offerings and what companies are using them?

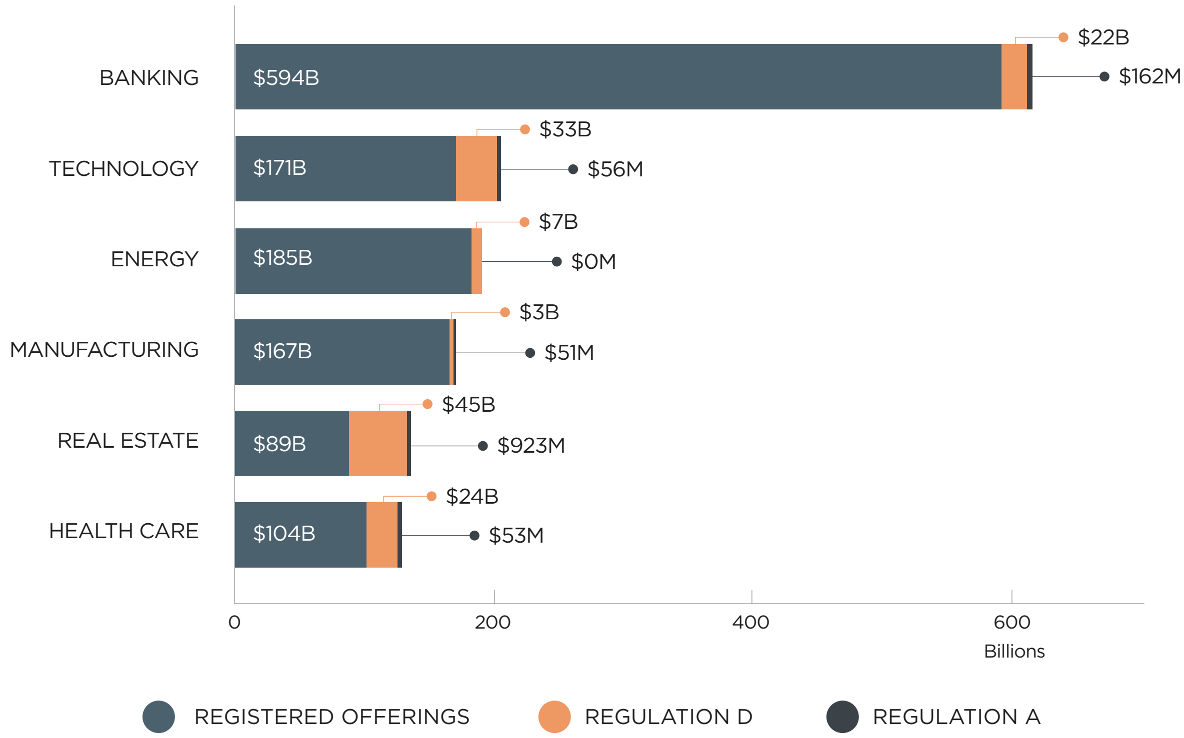
OFFERING TYPE	IN A NUTSHELL	TYPICAL CO. PROFILE
Equity Crowdfunding *Regulation Crowdfunding*[8]	Raising up to $1.07 million from many investors online. In 2021, the $1.07 million limit will be raised to $5 million.[9]	
Limited Offerings *Rule 504 of Reg D*[10]	Raising up to $5 million from investors, often with whom the company has a relationship. In 2021, the $5 million limit will be raised to $10 million.[11]	
Intrastate Offerings *Section 3(a)(11) and Rules 147 and 147A*[12]	Raising capital locally according to state law exemptions, which generally cap the offering at between $1 million to $5 million, depending on the state.	
Private Placements *Rule 506(b) of Reg D or Section 4(a)(2)*[13]	Raising unlimited capital from wealthier investors with whom the company has a relationship. As of December 2020, the rule will be expanded to include investors that hold certain professional certifications.[14]	
Accredited Investor Crowdfunding *Rule 506(c) of Reg D*[15]	Raising unlimited capital from wealthier investors, often online, using general solicitation.	
Mini Public Offering *Regulation A*[16]	Raising up to $50 million from many investors online. In 2021, the $50 million limit will be raised to $75 million.[17]	
Registered Offerings (including Initial Public Offerings) *Securities Act of 1933*[18]	Raising large amounts of capital through initial public offerings (IPOs) or secondary offerings through a registration statement filed with the SEC.	

 SMALL, EMERGING BUSINESSES

 MATURE AND LATER-STAGE GROWTH COMPANIES

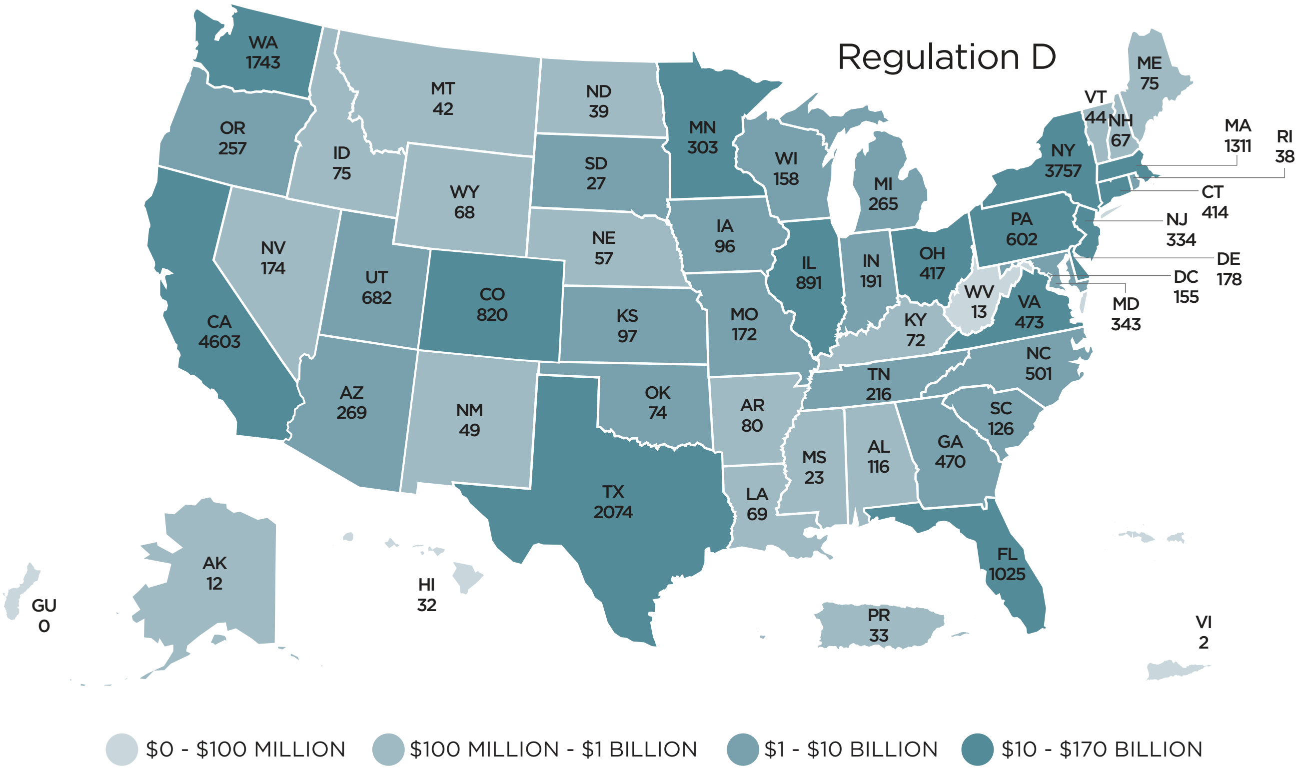
 SMALL PUBLIC COMPANIES

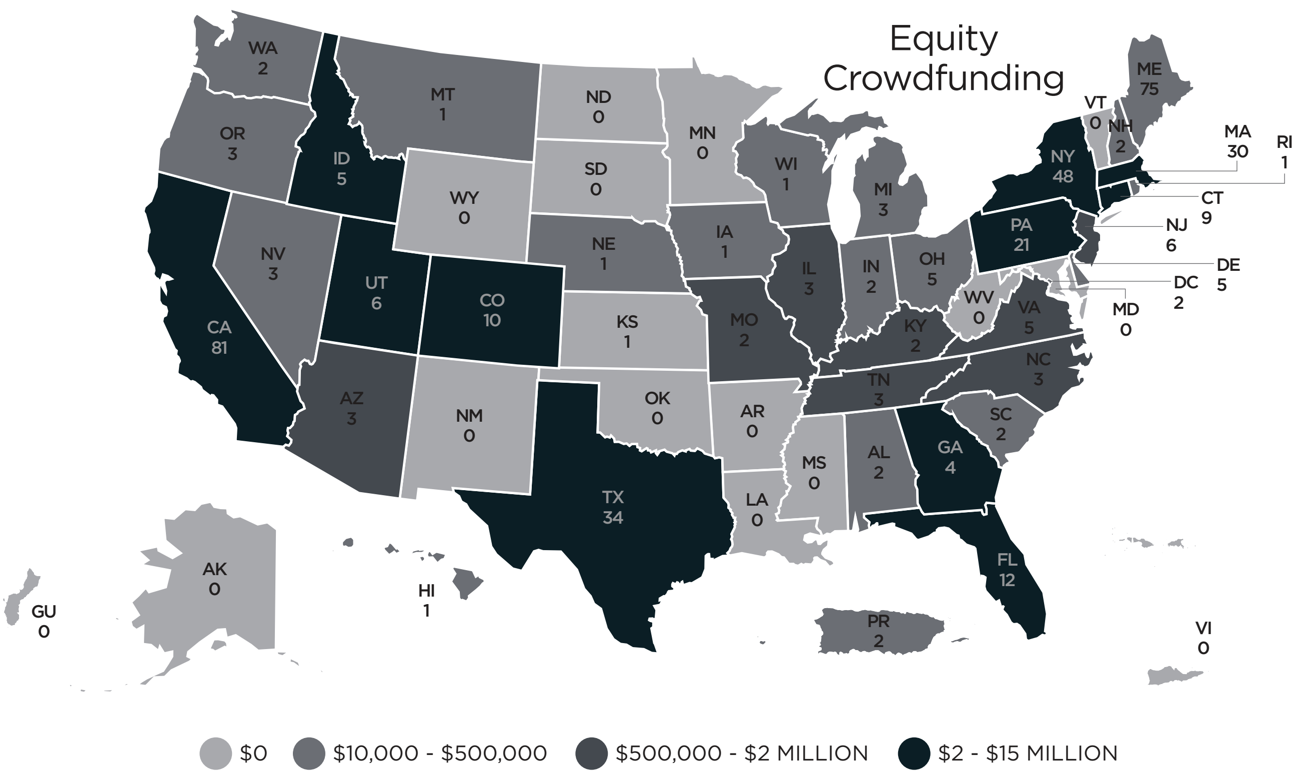
How are different industries using the offering pathways to raise capital (excluding pooled funds)?[19]

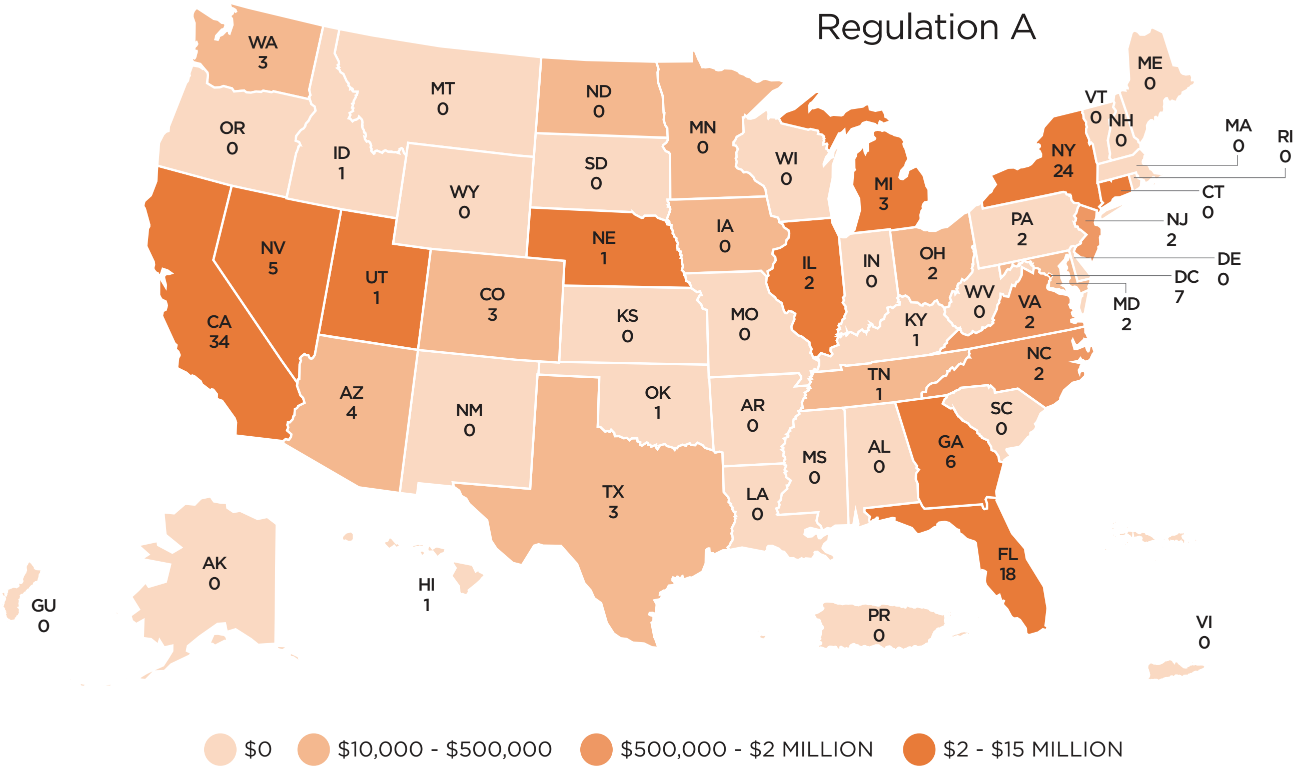


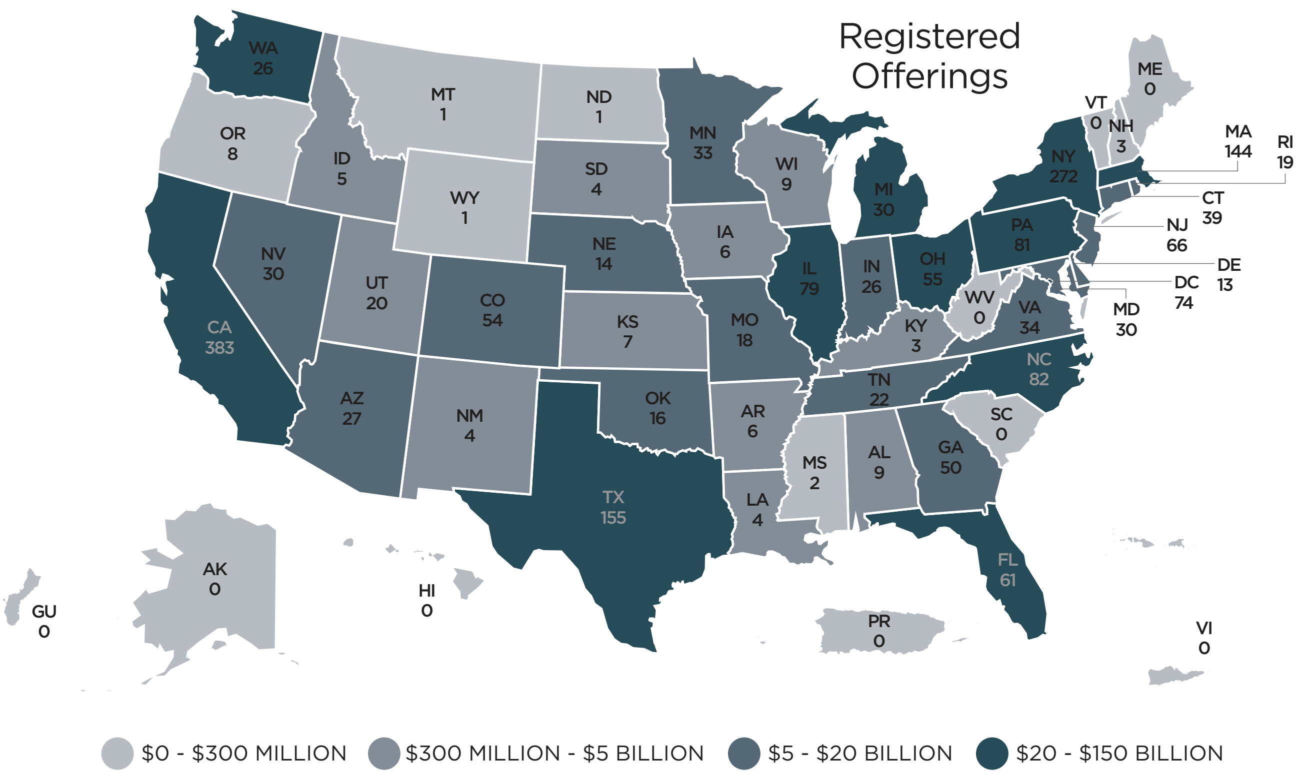
Where are companies raising capital?[20]

The following maps illustrate the concentration of estimated total capital raised under various different offering types by issuers that report a primary location in the U.S., with the number of offerings conducted indicated on each state.





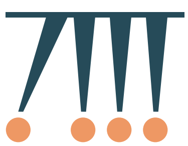

Regulation A
WA 3
OR 0
CA 34
ID 1
NV 5
MT 0
WY 0
UT 1
AZ 4
ND 0
SD 0
NE 1
CO 3
NM 0
KS 0
OK 1
TX 3
MN 0
IA 0
MO 0
AR 0
LA 0
WI 0
IL 2
MS 0
MI 3
IN 0
KY 1
TN 1
AL 0
OH 2
WV 0
GA 6
FL 18
SC 0
NC 2
VA 2
PA 2
NY 24
ME 0
VT 0
NH 0
MA 0
RI 0
CT 0
NJ 2
DE 0
DC 7
MD 2
AK 0
HI 1
GU 0
PR 0
VI 0
$0
$10,000 - $500,000
$500,000 - $2 MILLION
$2 - $15 MILLION


Registered Offerings
WA 26
OR 8
CA 383
ID 5
NV 30
MT 1
WY 1
UT 20
AZ 27
ND 1
SD 4
NE 14
CO 54
NM 4
KS 7
OK 16
TX 155
MN 33
IA 6
MO 18
AR 6
LA 4
WI 9
IL 79
MS 2
MI 30
IN 26
KY 3
TN 22
AL 9
OH 55
WV 0
GA 50
FL 61
SC 0
NC 82
VA 34
PA 81
NY 272
ME 0
VT 0
NH 3
MA 144
RI 19
CT 39
NJ 66
DE 13
DC 74
MD 30
AK 0
HI 0
GU 0
PR 0
VI 0
$0 - $300 MILLION
$300 MILLION - $5 BILLION
$5 - $20 BILLION
$20 - $150 BILLION

COVID-19 and Small Businesses

The COVID-19 pandemic led to an unprecedented health and economic crisis in the United States starting in March 2020. In response to the spreading virus, many households, businesses, and governments took measures to protect public health, including lockdowns and stay-at-home orders. Social distancing and other measures effectively closed many small businesses, leading to a sudden drop in economic activity and historic levels of joblessness.[21] While this section highlights some of the initial reported impacts of COVID-19 that have broadly been felt across the country, the long-term impacts of the pandemic remain largely unknown. The disruption to small business has been extreme[22] and the economic and financial shocks felt since March will likely create lasting fragilities within the small business ecosystem.[23] Subsequent subsections include additional data on the impact of COVID-19 at different stages of the capital raising life cycle and among demographic groups.

While small businesses have endured times of economic distresses in the past—and many noteworthy companies were born during downturns—the devastating impact of the virus and its uncertain duration are unlike any economic shock to date.[24]



The impact has been felt most acutely by founders and investors in historically underrepresented groups, in emerging ecosystems, and among smaller fund managers.[25]

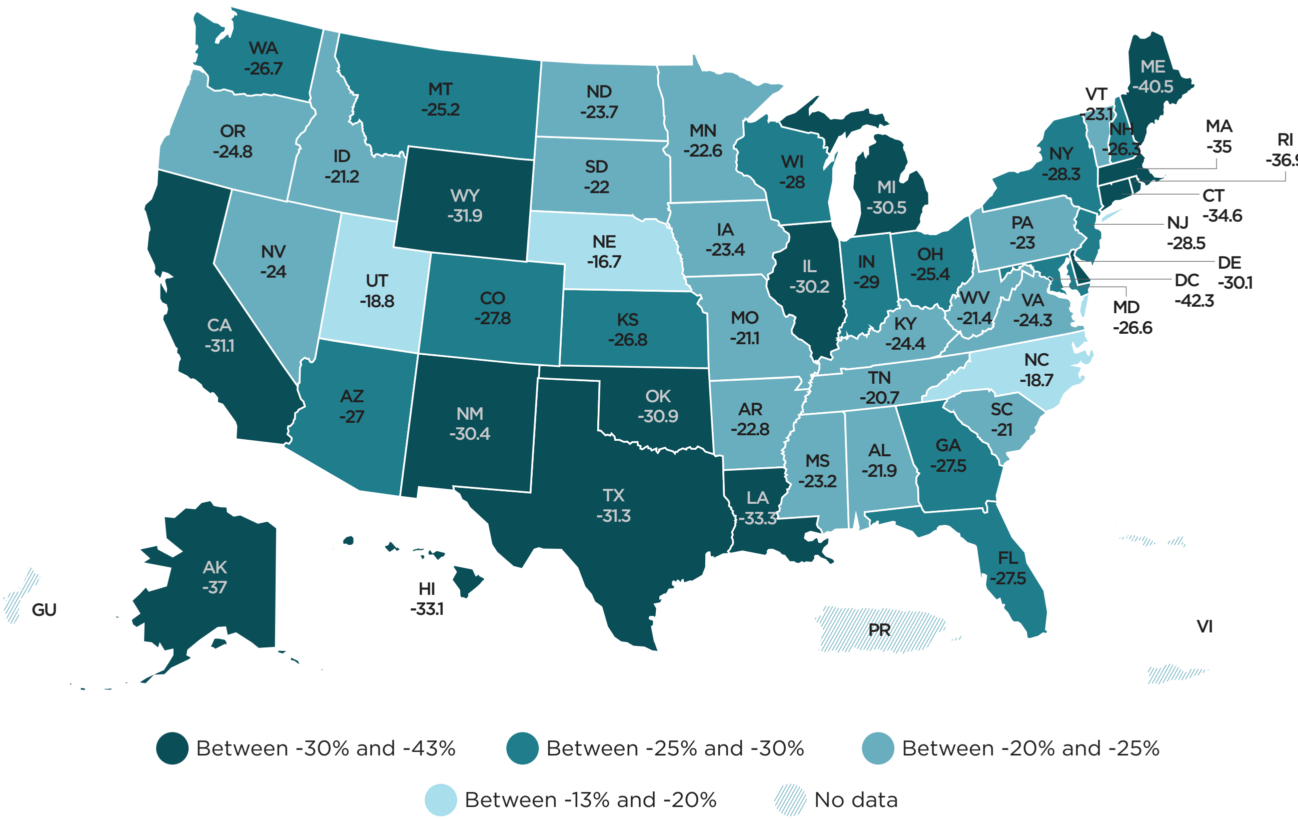
Small businesses are particularly vulnerable to social distancing measures.[26]

Reduction in spending has been particularly harsh at businesses that require in-person interaction, such as retail, entertainment, transportation, personal services, food services and hospitality.[27]

> "Small businesses make up nearly half of U.S. private-sector employment and play key roles in local communities. The pandemic poses acute risks to the survival of many small businesses. Their widespread failure would adversely alter the economic landscape of local communities and potentially slow the economic recovery and future labor productivity growth.
>
> BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM[28]

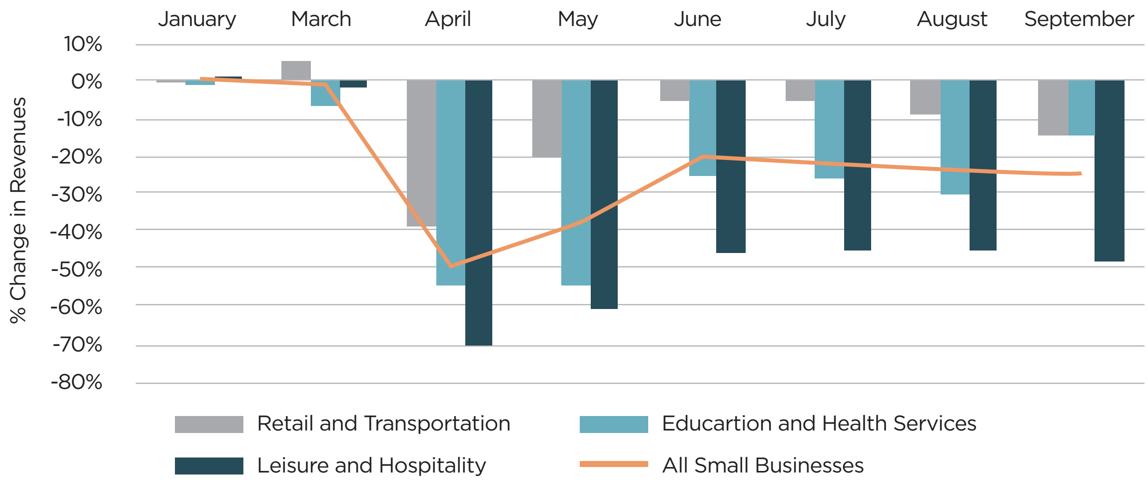
How has the number of open small businesses changed across the US?[29]

From January 2020 through September 2020, the number of small businesses decreased by **27%**. The below map illustrates the percentage change across the country.[30]



During the same time period, how did the percentages of open small businesses change across different industries?[31]

Of the businesses still open, how have their revenues changed during COVID-19 when compared to January 2020?[32]

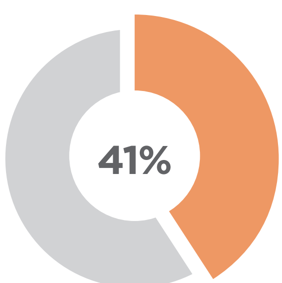


Access to capital remains a major concern for small business

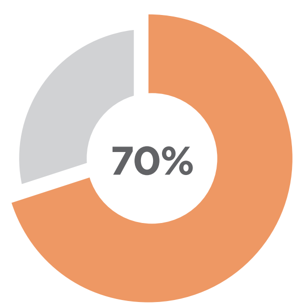
Many small businesses entered the pandemic with enough cash on hand to cover two weeks or less without revenue.[33]

45%

of small businesses needed to reduce their headcount.[34]



of small businesses planned to use personal savings to reopen their business, and 39% did not know where they would access capital to reopen.[35]



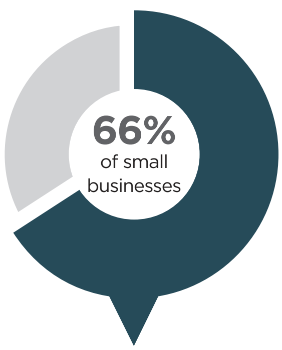
of small businesses are concerned about financial hardship due to prolonged closures and 58% worry about having to permanently close.[36]

In response to the COVID-19 pandemic, Congress passed the CARES Act providing $376 billion in relief for small businesses across the country.[37] However, since the start of the pandemic, other bank loans have become increasingly harder for small businesses to obtain as a result of tightening lending standards.[38]

> Much of the contrast in the fortunes of small and large businesses has been driven by differences in the financial resources available to them.
>
> JUSTIN LAHART,
> *WALL STREET JOURNAL*[39]

How are small businesses responding to the pandemic and social distancing meaures?

Many responded by adapting to meet consumer needs. Notably, such adaptations are not available in certain industries, and in some instances small business owners were only able to provide ongoing employment opportunities for certain types of positions.[40]



made significant shifts in products and/or services as a result of the pandemic.[41]

65% are doing more business online.[42]

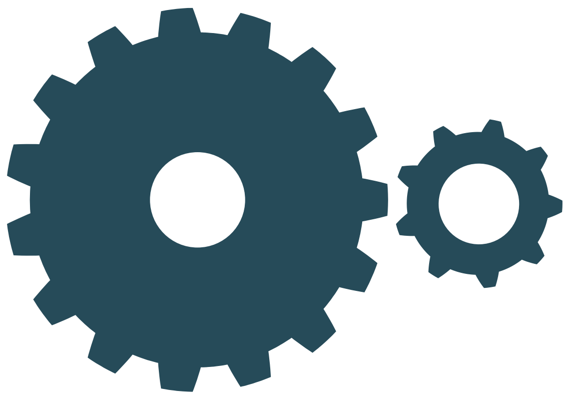
25% of small businesses increased their use of e-commerce or digital payment options.[43]

71% of
small businesses found support in their local communities.[44]

> Leadership teams have embraced technology and data, reinventing core processes and adopting new collaboration tools. Technology and people interacting in new ways is at the heart of the new operating model for business—and of creating an effective postpandemic organization.
>
> MCKINSEY & COMPANY[45]

82% of small businesses made workspace changes as a result of the pandemic, costing on average:

$11,729
initial set up costs



$1,800
ongoing monthly costs[46]

The new environment has accelerated adoption of certain innovations in many industries:[47]

- **Fintech**
- **EdTech**
- **Telemedicine**
- **Cloud Computing and Collaboration Software**

In the midst of the pandemic, Americans are starting new businesses at the fastest rate in more than a decade:[48]

some are spoting opportunities for new ideas,

while others are turning to entrepreneurship out of necessity.

How is capital raising being affected by COVID-19?

Given the impacts of COVID-19 on business operations, the natural question many are asking is how investment capital raising is being impacted? Data on capital raised from investors is often a lagging indicator of activity. Many of the funding transactions that occurred in the second and third quarters of 2020 were negotiated or planned prior to the start of the pandemic or delayed from one quarter to another as a result of the pandemic. The sections that follow highlight comparative data on a quarter-by-quarter basis from DERA that shows recent historic levels of funding by offering type, as well as how that funding is changing. Many experts predict that the impacts on investment capital raising will have wider ripple effects, not capable of being accurately measured by solely looking at the data through September of 2020.

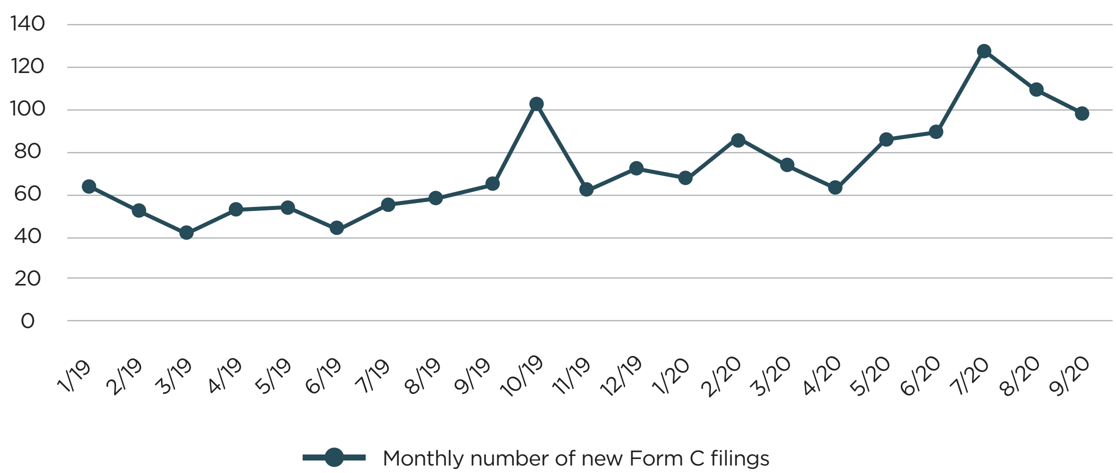
What is happening in crowdfunding?

Since 2016, over **2,600** companies have conducted

over **3,000** crowdfunding offerings,

raising an average of **$342,000**.[49]

How has the number of new crowdfunding offerings changed?[50]

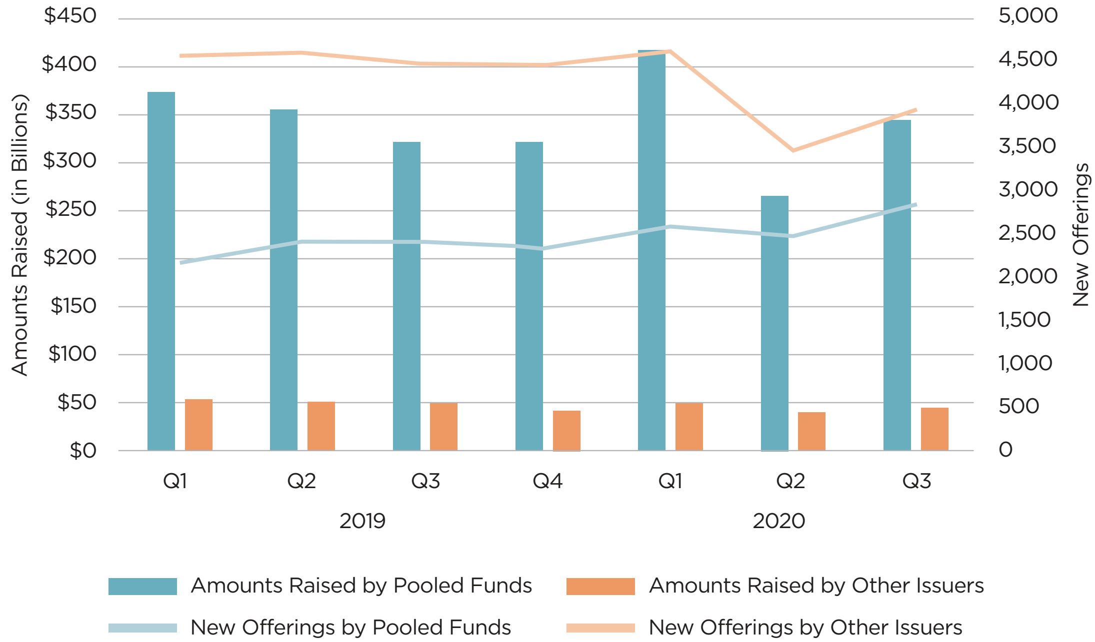


During July and August of 2020, companies raised the same amount of capital using crowdfunding ($48 million)

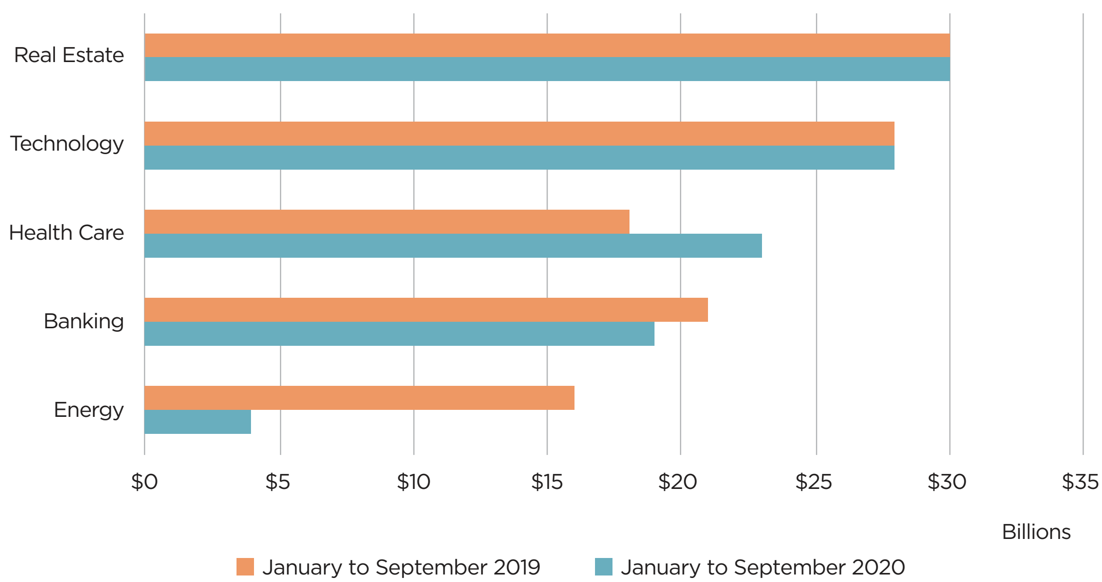
as the first full year (2016-2017) of online fundraising.[51]

Top 10 industries using crowdfunding by dollars raised[52]

How have Regulation D offerings changed?[53]

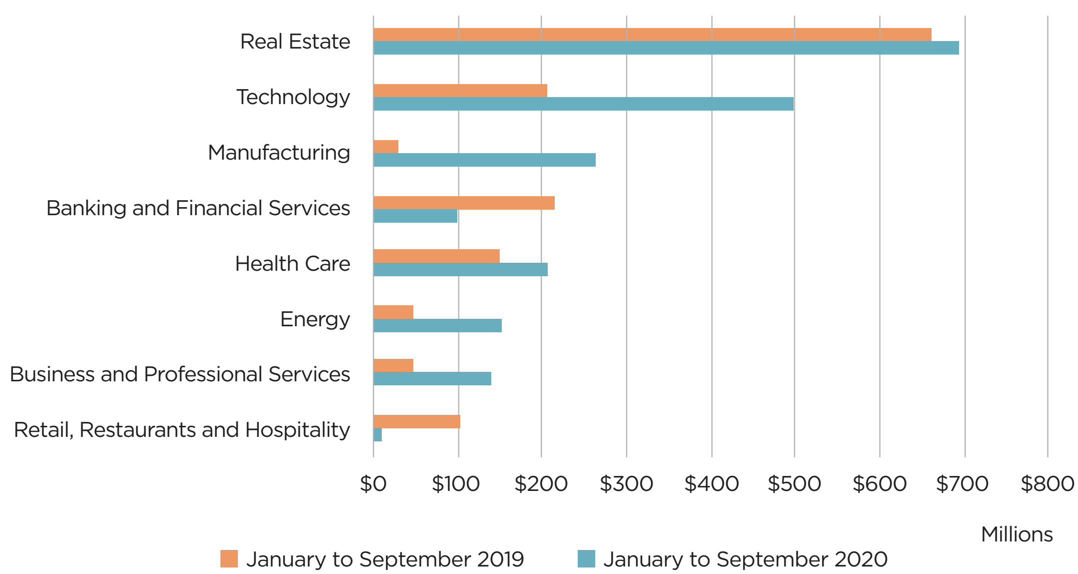


Excluding pooled funds, what are the top industries raising capital through Regulation D?[54]



How have Regulation A offerings changed?[55]

What types of businesses are using Regulation A?[56]



What is happening in the initial public offering (IPO) market?

Innovative adaptations related to the offering process have facilitated IPOs despite challenges resulting from COVID-19. One of the biggest changes has been marked by the shift from in-person marketing meetings to virtual roadshow events.[57] While traditionally issuers and their underwriters traveled across the country and sometimes across continents to pitch the IPO, in the face of the pandemic, companies and investors have quickly adopted virtual roadshows.[58] Some of the other changes include:

Shorter Roadshows

The average roadshow shortened from 8 days to 4 days.[59]

Decreased Exposure to Market Risk

The reduction in launch time from roadshow to IPO decreased companies' exposure to market risk and volatility.[60]

Cost Savings

Hundreds of thousands of dollars are saved from travel, printing, and employee time on roadshows.[61]

Longer Test-the-Waters Meetings

Test-the-waters meetings have lengthened.[62]

Greater Visibility in Pricing

Prospective investors are indicating interest earlier.[63]

Increased Accessibility

With video conferencing, companies are expanding geographical reach[64] and gaining access to a wider pool of investors.[65]

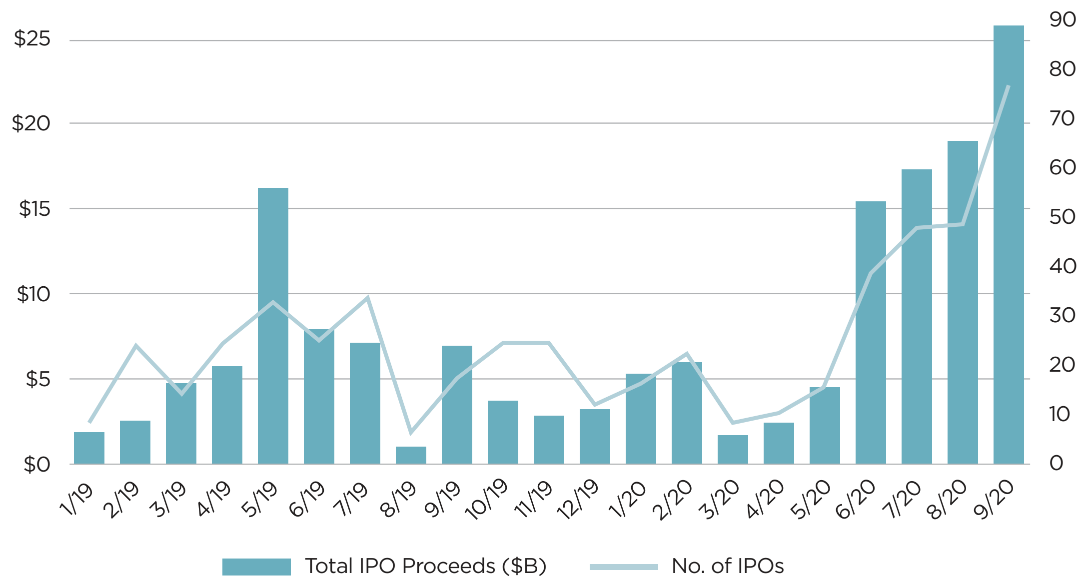
More Sophisticated and Detailed Disclosures

Companies are working to keep investors abreast of new developments as they happen amid the pandemic.[66]

Will these changes become the new standard? Some believe that the IPO process has adapted in ways that will change capital markets for years to come.[67]

Others have cautioned that startups and lesser-known companies may struggle to pique investors' interest without the opportunity to meet investors in person or through an abbreviated schedule.[68]

What is happening with IPO activity?[69]



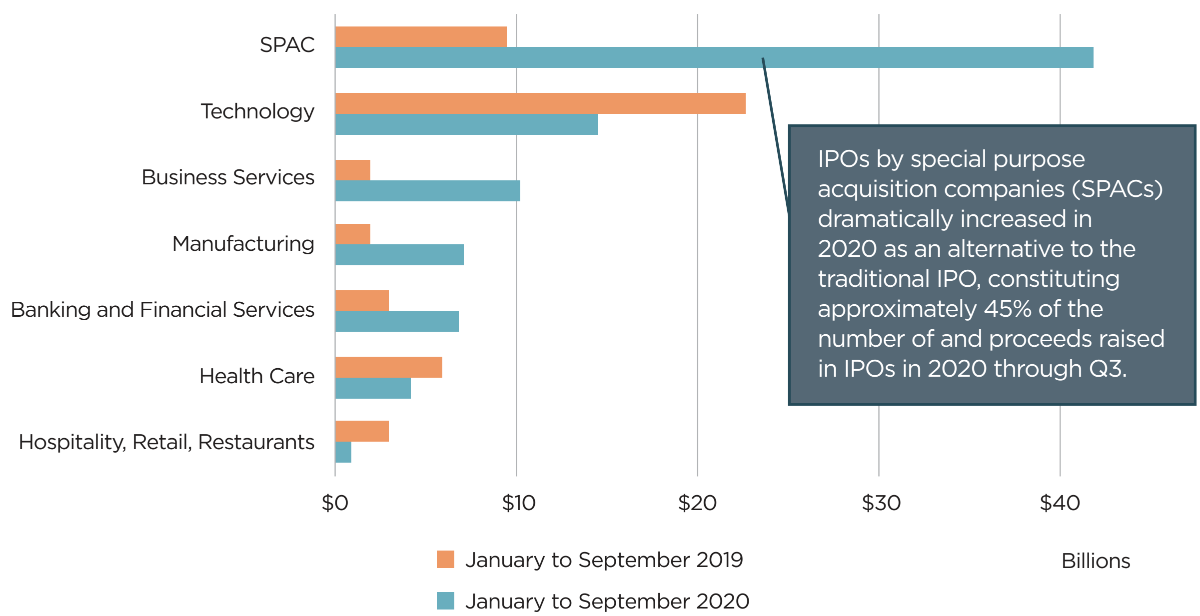
Comparing to the first three quarters of 2019, 2020 has seen a spike in IPOs:[70]

Increase in number of IPOs	51%

Increase in IPO proceeds	81%

What are the top industries raising capital in an IPO?

Businesses that successfully completed an IPO in 2020 tend to operate in fast-growing industries, quickly pivoted to a virtual environment, and serve a wide array of clients:[71]



Small and Emerging Businesses

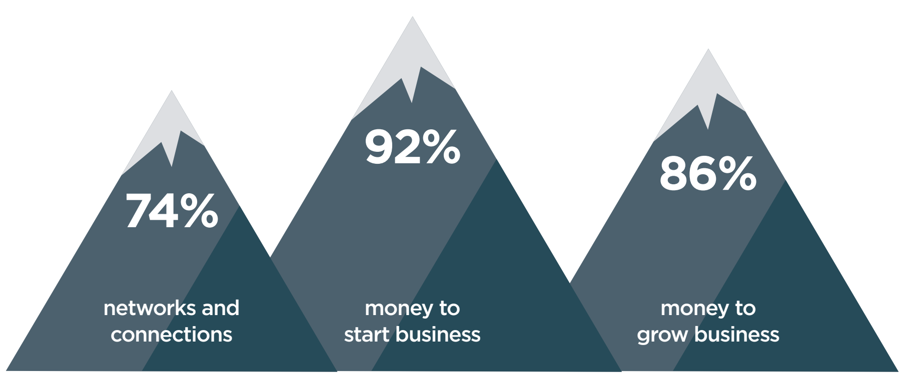
This segment of companies includes high-growth startups that raise capital to get off the ground and through early prototypes, as well as small businesses that provide local jobs but do not fit the high-growth model that is the target of venture capital (VC) investments.[72]

Why is access to capital for small and emerging businesses so important?

Small businesses less than one year old have an outsized impact on job creation:[73]

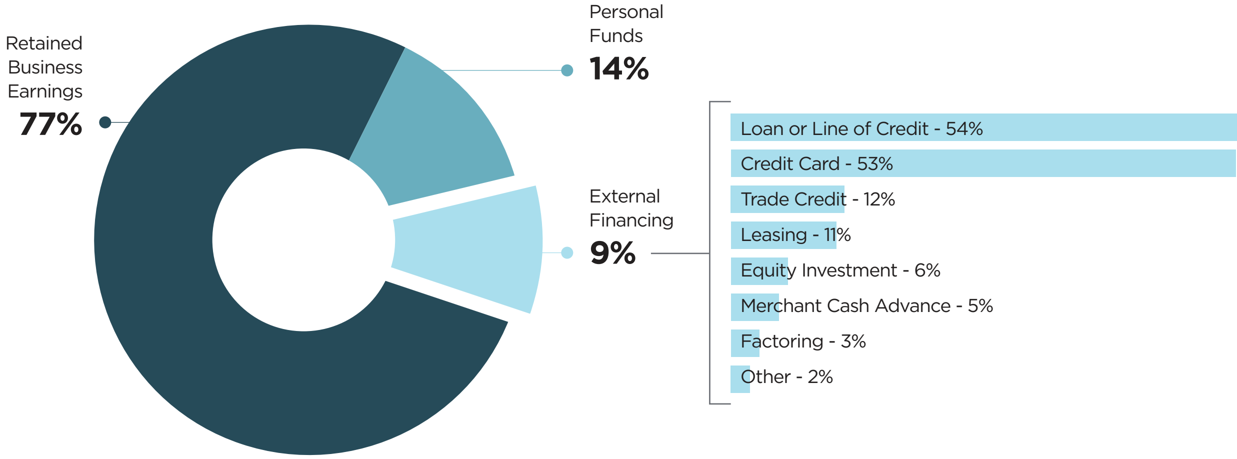
> Between 90 and 95 percent of entrepreneurs that hire require some amount of financing to start their businesses.
>
> VICTOR HWANG, SAMEEKSHA DESAI, AND ROSS BAIRD[74]

The vast majority of aspiring entrepreneurs report multiple barriers in accessing capital for their businesses, including the following top challenges according to a recent survey:[75]



What are common sources of capital for small and emerging businesses?

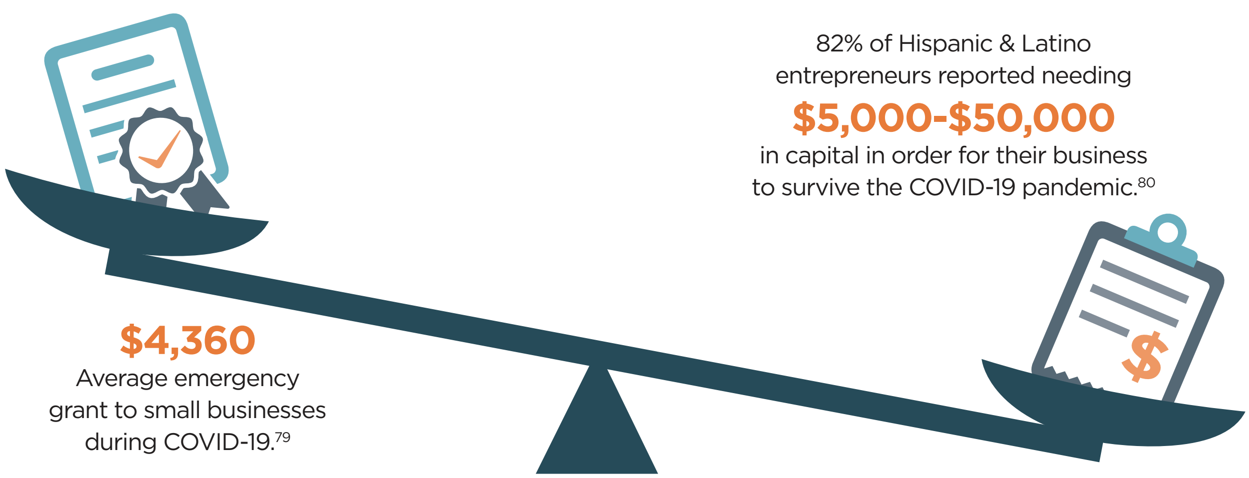
Financing needs vary widely, and funding in the earliest stages when companies are pre-revenue or pre-product development can be difficult to find.[76] Small and emerging businesses generally raise capital through a combination of funding sources, with the primary sources of funding as follows:[77]



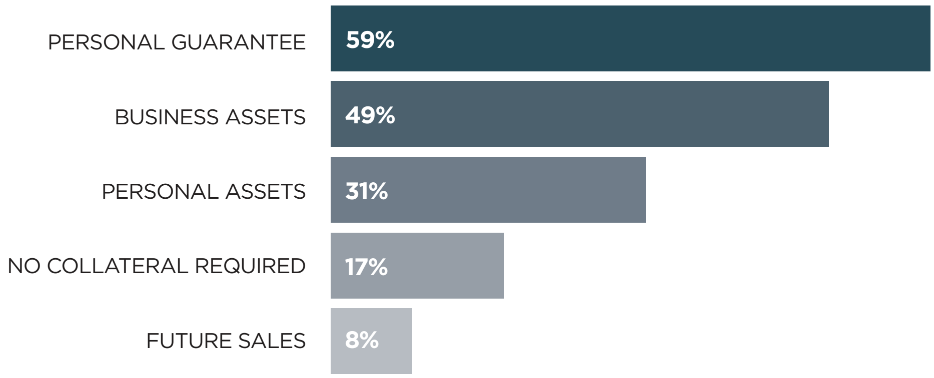
Notably, retained business earnings are generally an option only available to established companies or companies with short product development cycles, and personal funds are only an option for those with existing resources.

What role do grants play in funding small businesses?

Grants are a non-dilutive source of early funding, but they can be time-intensive and may not provide as much capital as companies need to jumpstart growth.[78] COVID-19 has exacerbated the divide between grant funding available and the capital needs of small businesses:



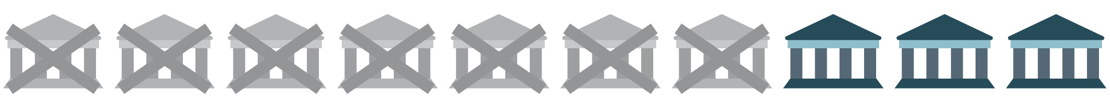
What sources of collateral are used by small businesses when accessing bank loans?[81]



Bank loans may not be a funding option for many small and emerging businesses. During the initial start-up stage, they typically have minimal or no collateral and lack sufficient earnings histories, tax returns, and performance track records for bank underwriting.[82] In the absence of collateral from the business, banks often rely on information about the founder or entrepreneur, such as personal wealth, income, debt, or home ownership, to determine loan default probability.[83]

What is the role of community banks?

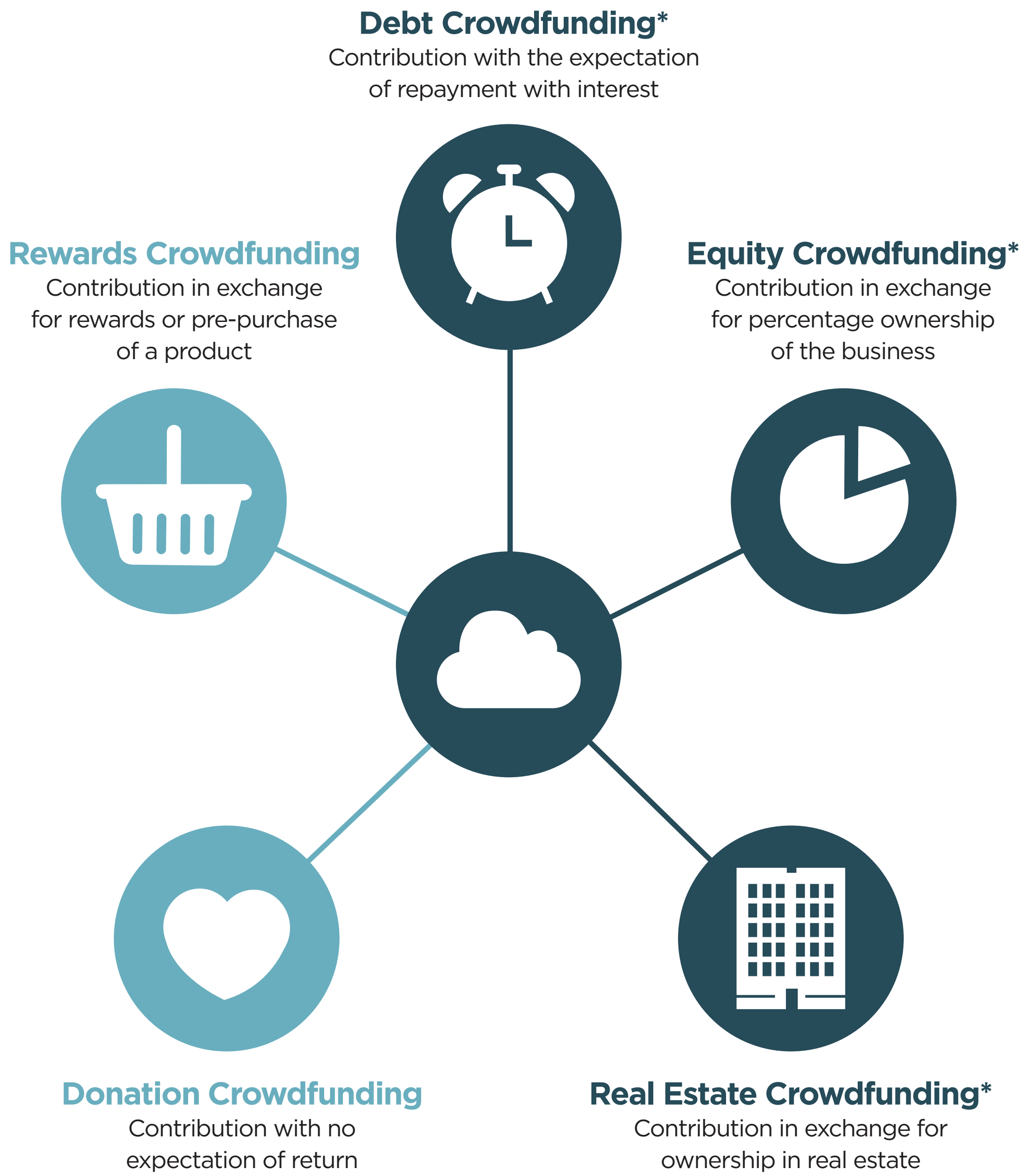
Community banks are often better positioned to underwrite small business loans because their relationship lending models provide an advantage for pricing lending risks that are unique, infrequent, and localized, including close familiarity with customers, more tailoring of loans, and close geographic proximity to collateral.[84]



Since 1986, there has been a 70% decrease in the number of FDIC-insured banks.[85]

How is crowdfunding used for financing?

Crowdfunding is often used as a broad term that captures different methods of raising funds in which a relatively large number of people make relatively small contributions or investments.



*Subject to securities laws.

What is the role of angel investors?

Angel investors are generally high net worth individuals who invest their own funds directly in early-stage businesses. Companies receiving angel investments are largely in the development stage and therefore riskier investments.[86] Recognizing the importance of diversifying, angels often syndicate, which allows them to participate in larger deals and limits their individual check sizes.[87]

What was the scale of angel investing in early-stage companies in 2019?[88]

323,365
active angel investors

$23.9 billion
in total angel investments

63,730
entrepreneurial ventures received angel funding

$374,225
average angel funding round

> Beyond supporting their own portfolio companies, angels are an integral component of the growth of VC ecosystems. The impact of angel mentorship and networking can be even more influential within ecosystems outside traditional VC hubs.
>
> PITCHBOOK[89]

Angels generally invest in businesses located close by. The distance between the lead investors and the target business averages only **37 miles**.[90]

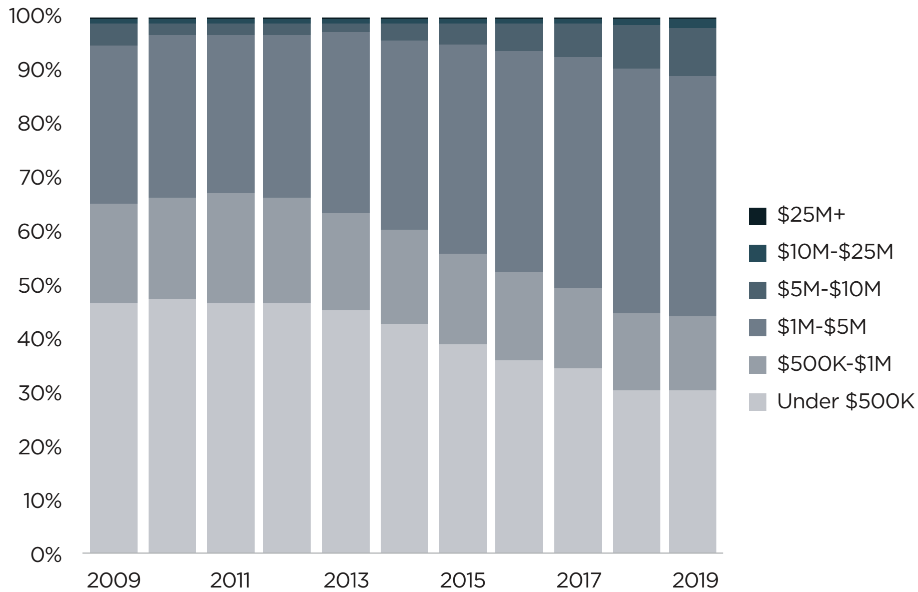
How has seed funding activity changed in recent years?

The seed round is often a company's first official round of funding and consists of a small amount of capital typically used for product development, market research, or business plan development.[91] Seed rounds typically range from $250,000 to $2 million.[92]

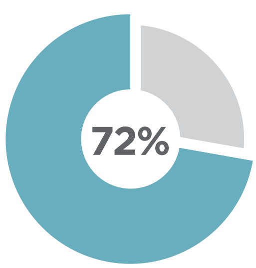
Seed deal sizes have climbed over the past seven years, landing at an annual median of **$1.1 million** in 2019.[93]

For companies looking to raise smaller amounts, the availability of smaller deals has diminished.[94]

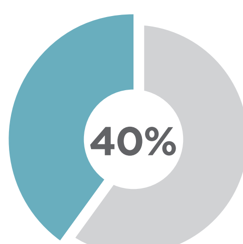
U.S. angel and seed deal activity size (by number of deals)[95]



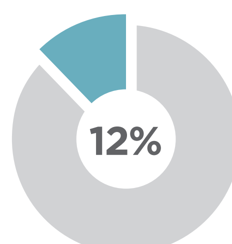
What changes in this market segment have been observed amid COVID-19 since March 2020?[96]



of startups saw their revenue drop at the beginning of the pandemic.



of startups saw their revenue decline by at least 40%.



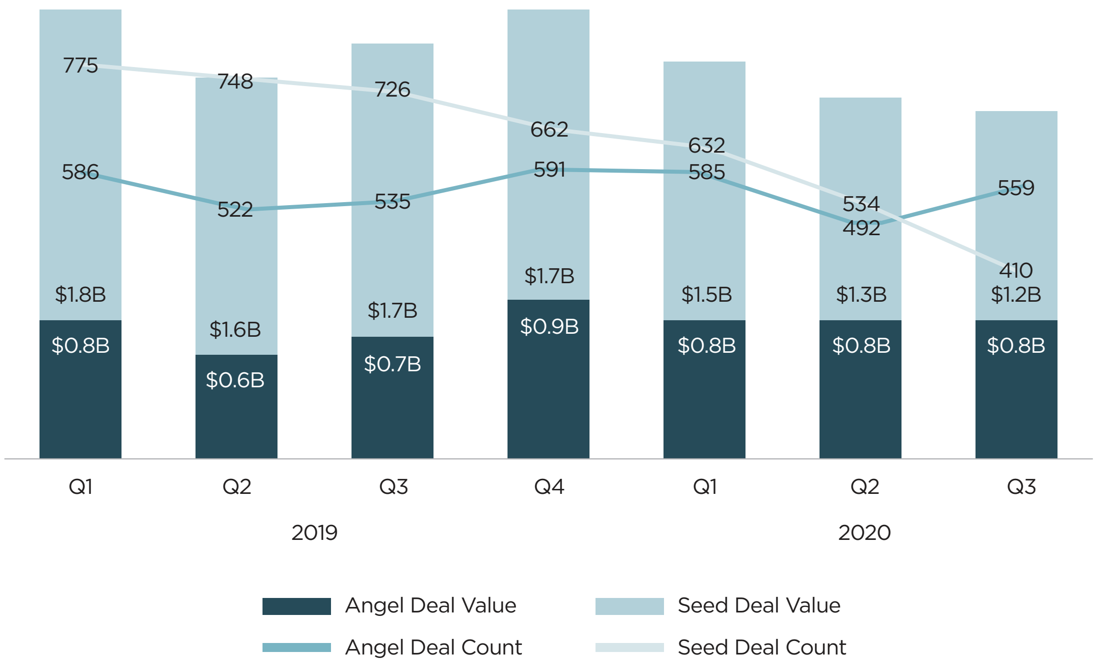
of startups are experiencing significant revenue growth.

Good and bad news for angel and seed investment activity.

Angel investment activity has remained resilient[97]

First time equity financings and seed-stage activity have seen steady declines[98] as early stage investors turn to supporting existing portfolio companies.[99]

Angel investment activity has remained resilient as seed activity has declined.[100]



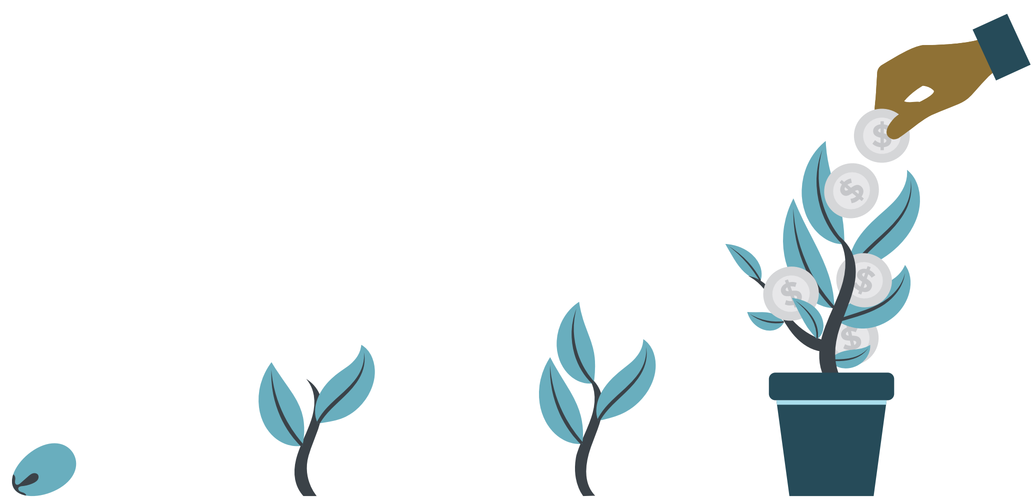
Mature and Later-Stage Businesses

Companies within this segment of the market are generally growing and looking for larger amounts of capital that can fund operations of scale, ventures into new verticals, and preparation for public markets. Most often their investors are institutional in nature.

12,207 **venture capital (VC) deals in 2019**[101]
(aggregate value of $136.8 billion)

5,484 **private equity (PE) deals in 2019**[102]
(aggregate value of $781.5 billion)

How much are mature and later-stage businesses raising across their lifecycle?[103]



Seed
Seed investments ($250,000 to $2M)

Early-Stage
Series A ($2M to $15M) or Series B ($10M+)

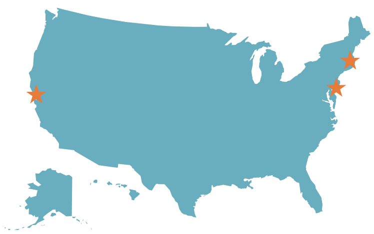
Later-Stage
Series C or Series D ($10M to $100M+)

Exit
IPO, Merger or Acquisition

Who invests in mature and later-stage businesses?

Venture Capital Funds

Venture capital funds are generally structured as private funds that invest in early stage companies with high growth potential, taking on a high degree of investment risk in exchange for significant expected investment multiples.



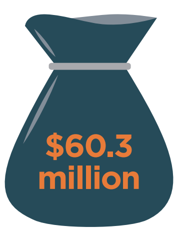
70% of VC funds are concentrated in 3 metro areas.[104]

Investments are locked in until a liquidity event.

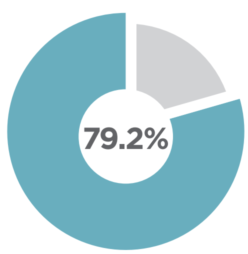
Lifespan to raise capital, enter into, and exit from all investments is limited.[105]

Nontraditional Investors

Investors that historically made investments through VC funds as limited partners—such as sovereign wealth funds, corporations, and other institutions—are increasingly making direct investments in mature and later-stage businesses.[106]



Average later-stage deal size with nontraditional participation in 2019 was more than 4x the average size of deals without a nontraditional investor.[107]

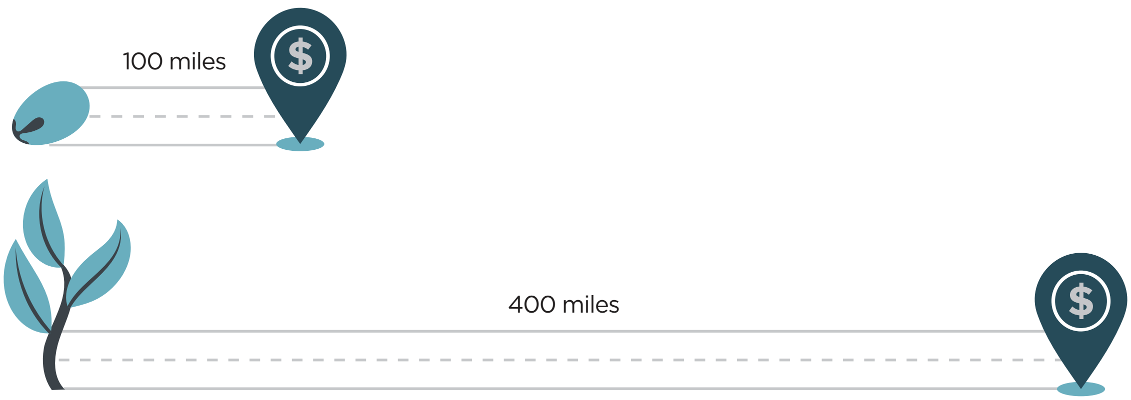


of VC deal value originated from deals with nontraditionals in 2018 and 2019.[108]

Many nontraditionals, especially mutual funds, invest with expectations of capturing returns from an imminent IPO.[109]

Where do later-stage companies find investors?

Companies looking for seed financings often work through local investor networks first, generally within 100 miles, while later-stage companies generally require larger funding vehicles, and the median distance between the company and lead investor grows to over 400 miles.[110] Given the active role most VCs take with their portfolio companies as board members and strategic advisors, proximity makes it easier to monitor and stay engaged with companies through formative milestones.[111]



What pathways to liquidity are available for investors in later-stage companies?

Preferred exit strategies have changed over time. While IPOs were traditionally the most common way to profitably exit an investment, over time an acquisition by a strategic investor or by an existing large company has become the most popular:[112]

$64.2 billion

was invested in the acquisition of VC-backed businesses in 2019.[113]

58% of founders

surveyed have acquisition as a long-term goal for their company, compared to only 17% interested in an IPO.[114]

47% of IPOs

from 1995-2018 were backed by VC investors.[115]

Within 5 years post-IPO,

15% of VC-backed

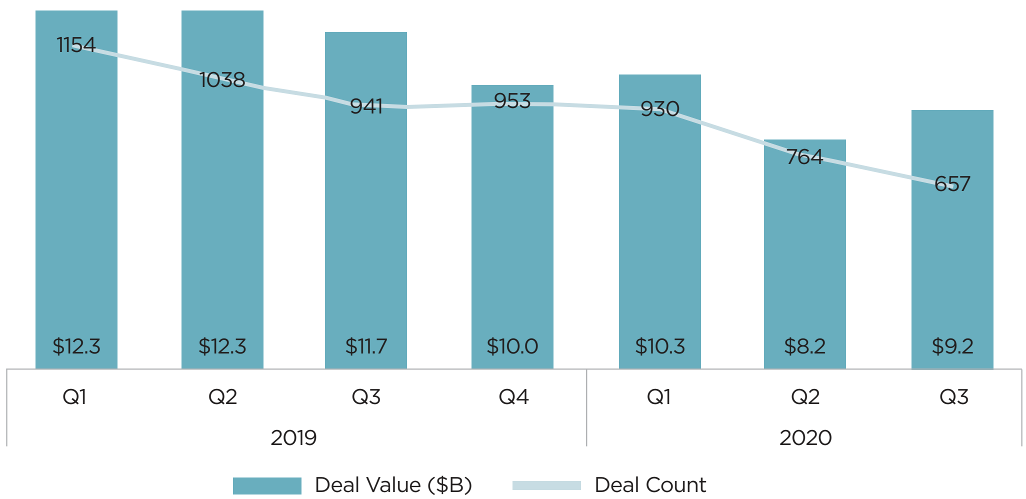
companies raise additional VC funding, half of which is from their original VCs.[116]

How are mature and later-stage companies and their investors responding to COVID-19?

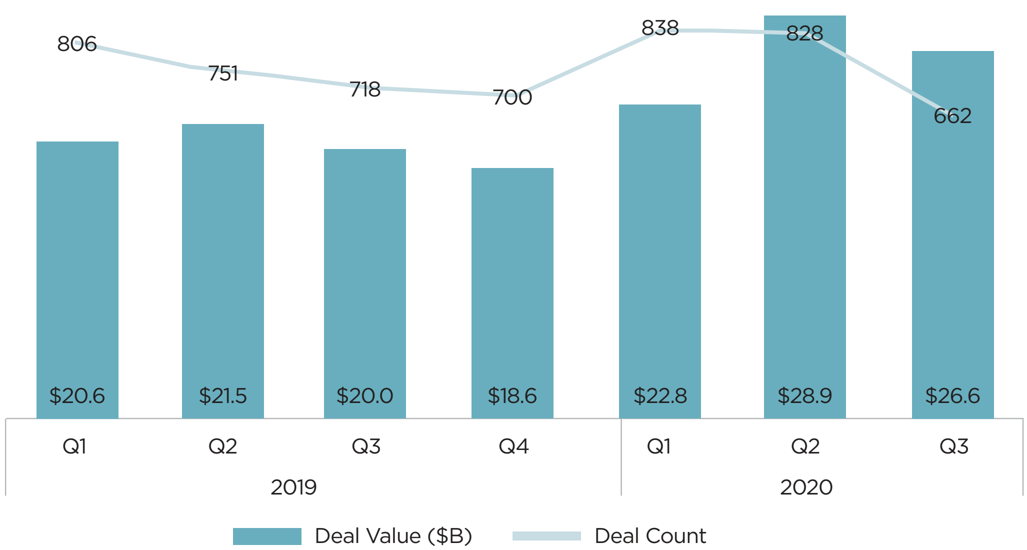
While some funds and portfolio companies have been significantly impacted by the pandemic, initial data suggest that the VC industry in the aggregate has been less affected than other parts of the economy.[117] A primary impact of the pandemic has been market uncertainty that is substantially different from the type of uncertainty these founders and investors have historically evaluated.[118] Companies have been preparing for long-term impacts by establishing cash reserves and trimming budgets.[119]

How has the pandemic impacted VC deal activity?

While early-stage VC (Series A and B) started to increase in deal value at the beginning of 2020, deal count continues to decline:[120]

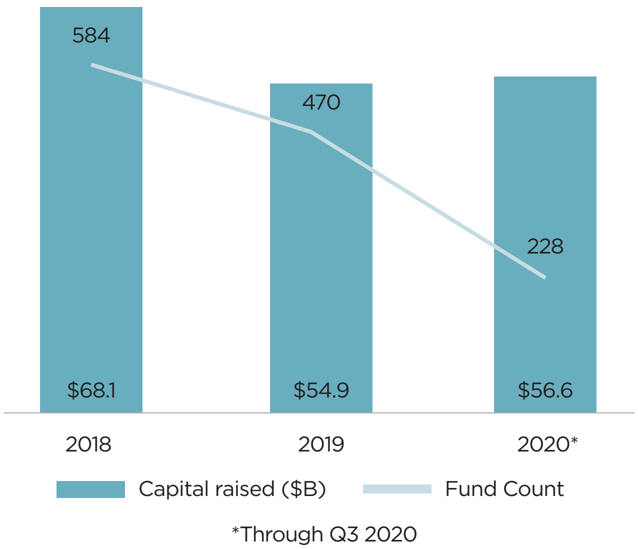


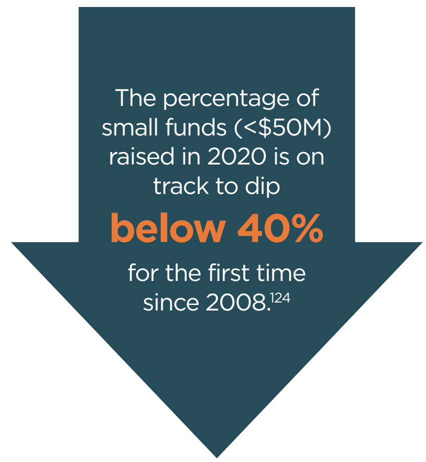
Later-stage VC deal activity (Series C and up) has been more resilient than other stages,[121] which may be a reflection of investors focusing funding on existing portfolio companies rather than new investments:



How has VC fundraising activity changed?

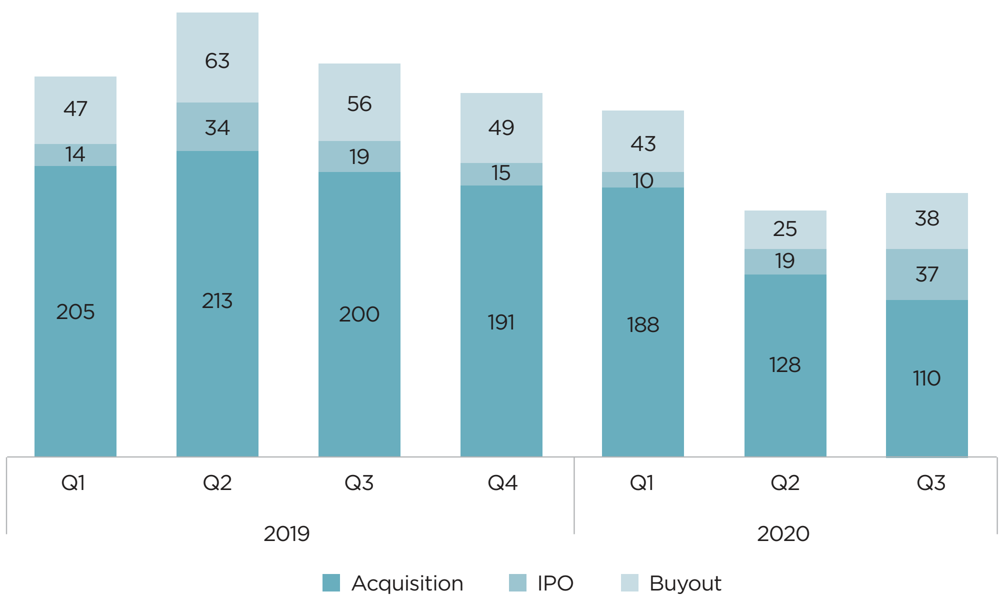
Through the third quarter of 2020, overall fundraising activity remained active.[122] However, since the pandemic hit, there has been a significant drop in first-time funds, which raised only $1.9 billion across 30 funds through Q3 2020, compared to $5.3 billion over 81 funds in 2019:[123]





How has exit activity changed?

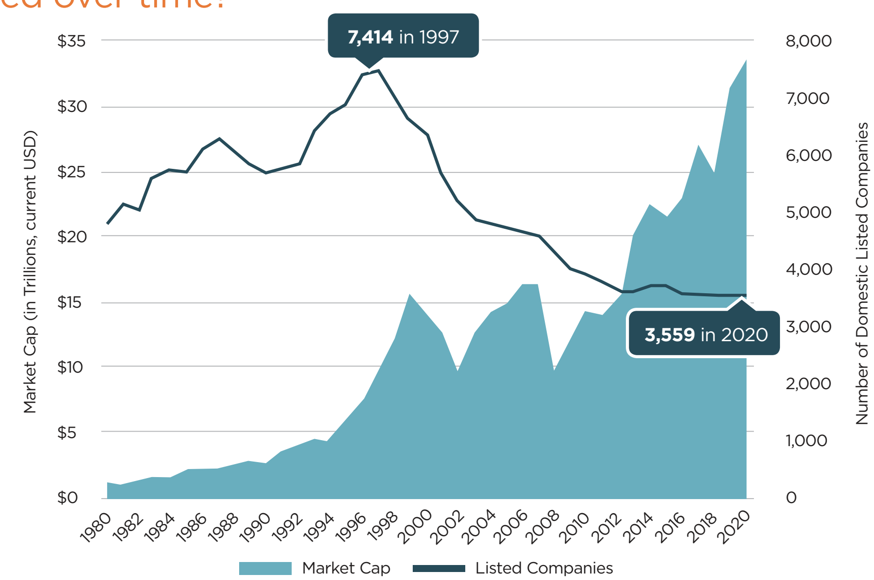
Over the last three quarters, acquisition activity has dropped while IPO activity has increased by deal count:[125]



Small Public Companies

Companies can access broad pools of investors when they conduct public offerings, allowing companies to raise large amounts of capital to fund activities such as research and development, capital expenditures, or debt service. Public offerings also provide liquidity to early-stage investors and publicity for the company's products and services.

How has the prevalence of U.S. publicly-traded companies changed over time?[126]



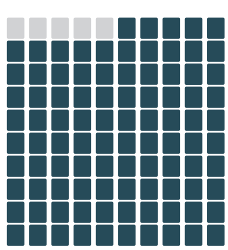
Since 1996, more than

90% of the stocks that have disappeared

are those of small- and micro-capitalization companies.[127]

How have corporate assets moved between the public and private markets?

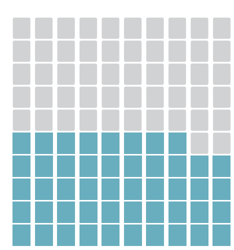
As an alternative to evaluating public market trends by number of listed companies, the public markets have seen a far lower decline when considering the change in public company corporate assets:



Only a 5% decline

in corporate assets in the public market since the 1990s.[128]

Vs.

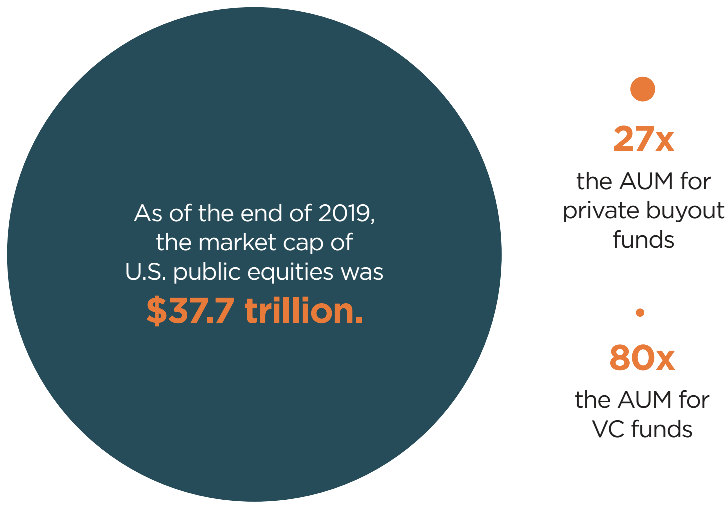


52% decline

in number of public companies since the end of 1997.[129]

How does the size of the public market compare to the private markets?

The size of the U.S. public market is significantly larger than market for private investments via buyout funds and venture capital funds:[130]



The amount managed by U.S. domestic mutual funds far exceeds the assets under management (AUM) and dry powder for both private buyout and venture capital funds:[131]

When comparing the average investment returns of private funds over the past three decades using a public market equivalent, buyout funds have outperformed the public markets by a ratio of 1.2,[132] and VC funds have performed relatively the same as the public markets at slightly above 1.0.[133]

What has happened with public market offerings from July 1, 2019 through June 30, 2020?[134]

All IPOs:

232 offerings with $259M average proceeds

Small public company registered offerings:

457 offerings with $53M average proceeds

How has the size of public companies changed over time?

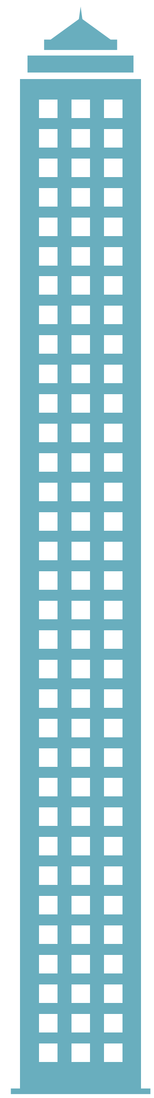
The average market capitalization for a public company has dramatically increased:[135]

$700 million

in 1976
(adjusted for inflation)

$10.4 billion

in 2020



Small companies that remain increasingly struggle to grow to a larger size, often referred to as the "small size trap."[136] The percentage of small companies that grew into medium or large companies has been cut in half since the 1990s:[137]

What are the costs and benefits founders and their investors typically weigh with becoming a public company?[138]

COSTS

Listing fees

Regulatory requirements

Disclosure expenses and competitive risks

Investor relations

Increased market and media attention

Short-termism

Loss of founder control

BENEFITS

Liquidity and ease of capital raising

Efficient price discovery

Analyst research

No investor qualification requirements

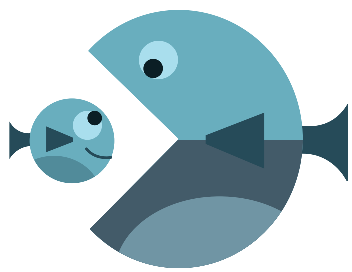
Reputational prestige and market trust

Employee incentives

How do smaller IPOs differ from larger IPOs?

Smaller IPOs have driven a substantial amount of aggregate and sustained performance in the U.S. equity markets:[139]

Smaller companies pay a larger percentage of deal value in listing and compliance costs when seeking to raise small amounts of capital as compared to larger IPOs.[140]



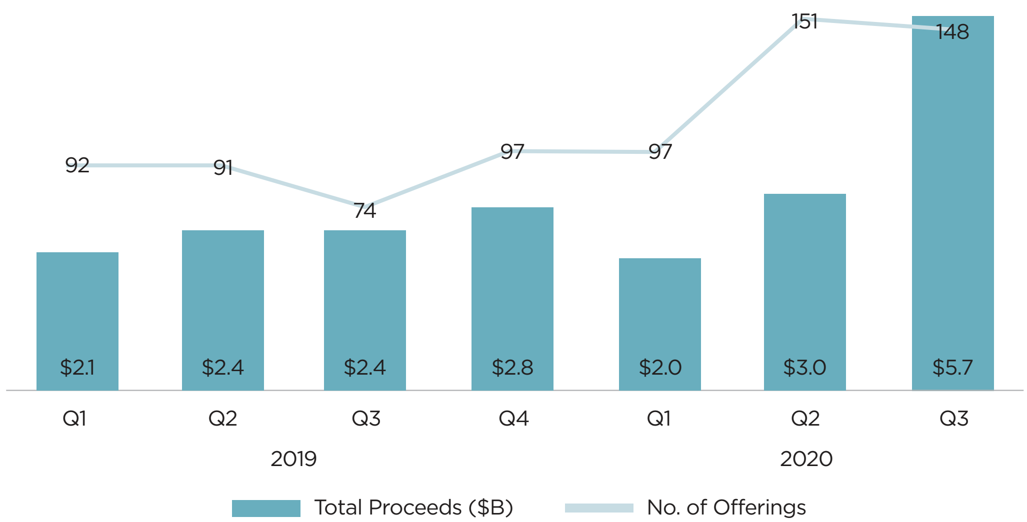
Smaller companies may prefer acquisition over IPO to capture more value and create economies of scale.[141]

A significant portion of smaller IPOs are by biotech startups,[142] who tend to go public earlier in their lives, providing an opportunity to see meaningful upside valuation in the public markets.[143]

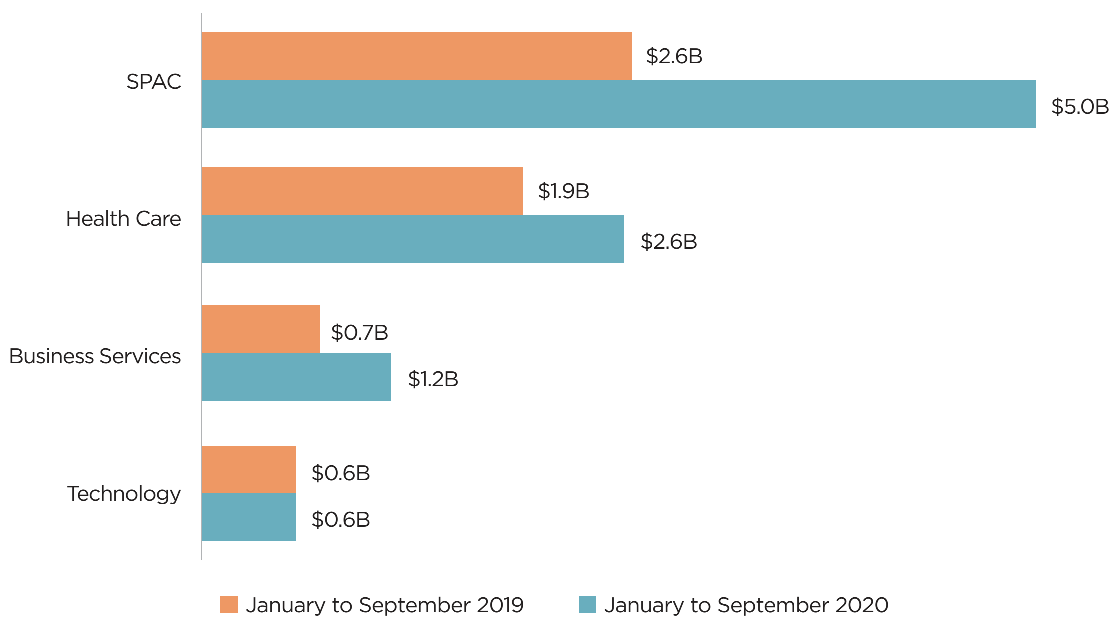
What is the significance of companies staying private longer?

The propensity to list is estimated to be half of what it was in the mid-1990s.[144] Staying private longer has been linked with more innovative pre-IPO companies, in terms of the quantity, quality, and the fundamental nature of their research,[145] as well as the creation of more wealth for private market investors and less for retail investors in the public market.[146]

How much capital are small public companies raising in registered equity offerings?[147]



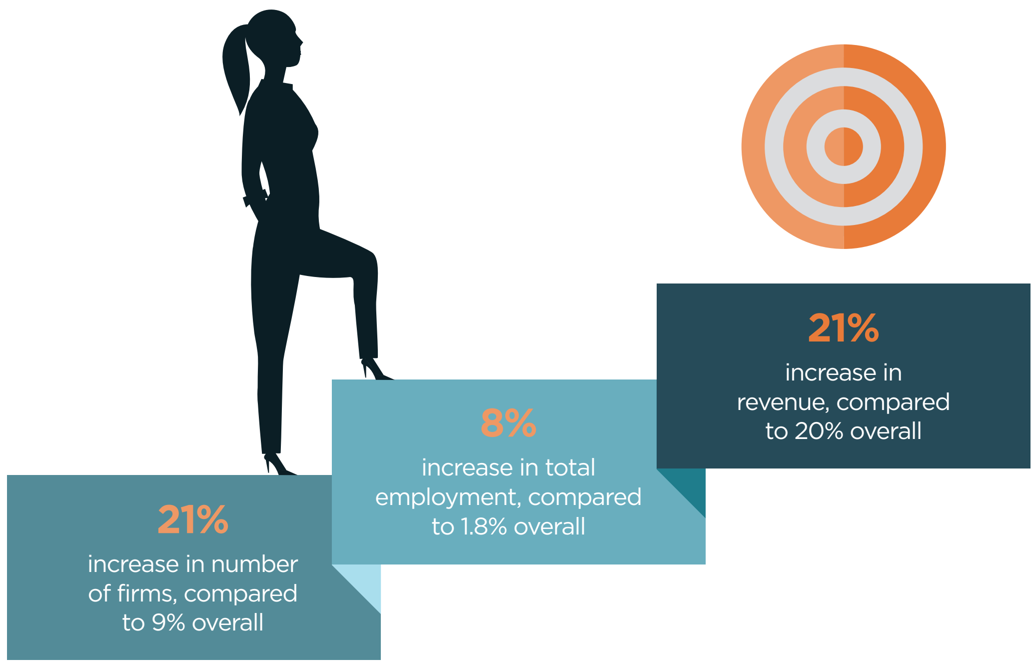
How did registered equity capital raising change between 2019 and 2020 for small public companies based on industry?[148]



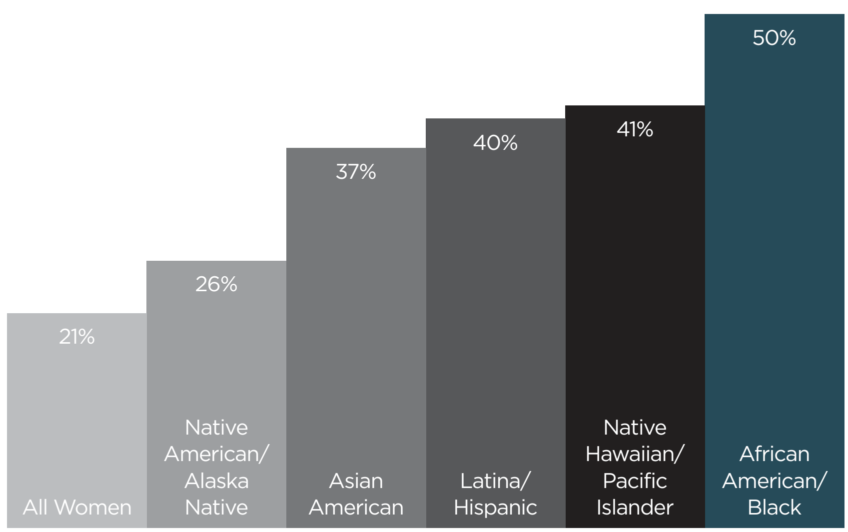
Founder Demographics and Capital Formation

Women-Owned Businesses

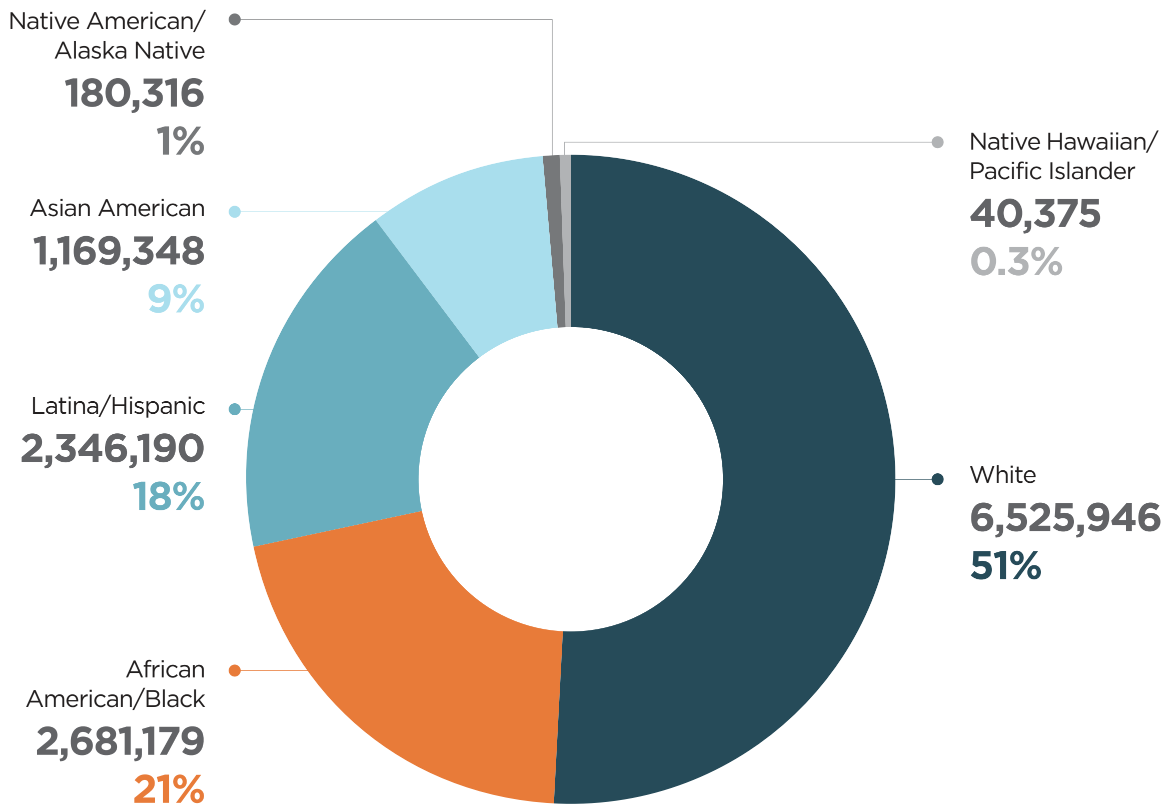
From 2014 to 2019, women-owned businesses have experienced significant growth compared to all businesses in the country:[149]



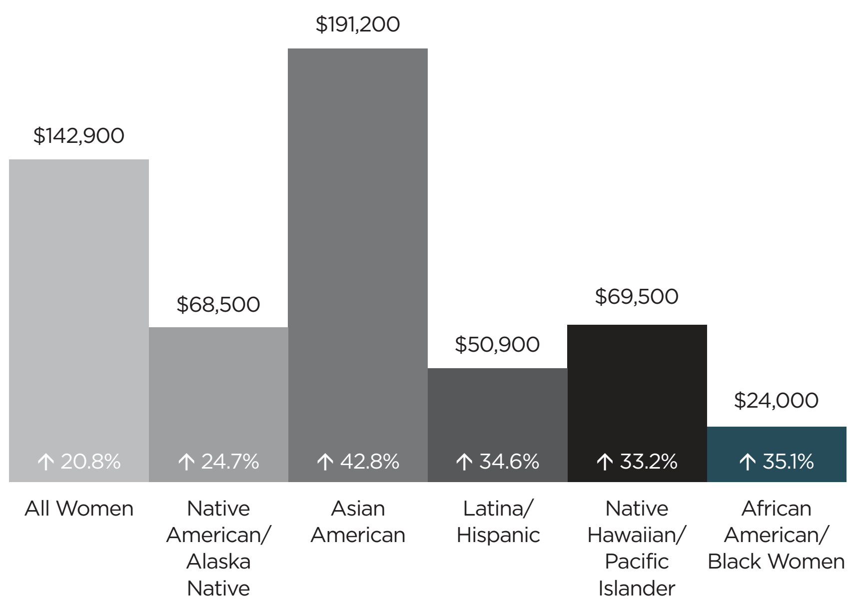
From 2014 to 2019, minority women-owned businesses grew at an even faster rate than women-owned businesses as a whole:[150]



The almost 13 million women-owned businesses include significant minority ownership:[151]



However, while all revenues have increased since 2014, average revenues in 2019 among women-owned businesses varied widely by racial and ethnic groups:[152]



How are women founders faring with capital raising?

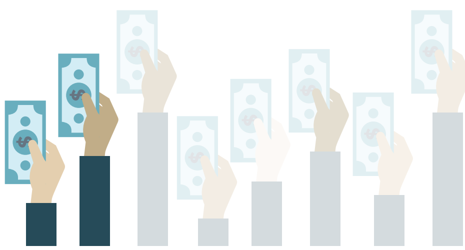
Women constituted

27.6%

of entrepreneurs seeking capital in 2019

and had an investment yield rate of

21.4%



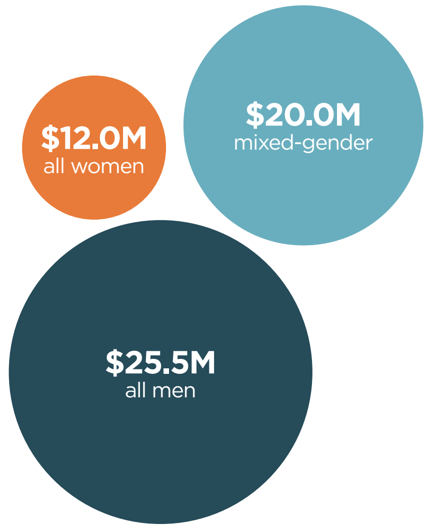
(up from 17.5% in 2018)

compared to a baseline rate of

30.7%

(up from 23.2% in 2018).[153]

The median VC pre-money valuation varied by gender in 2019, with mixed-gender teams experiencing the most rapid year-over-year growth:[154]



Additionally, women founding teams tended to raise less per funding round in 2019 than their male founding team counterparts:[155]

Median Seed Round

$460,000 women-only founding teams

$600,000 male-only founding teams

Median Series A

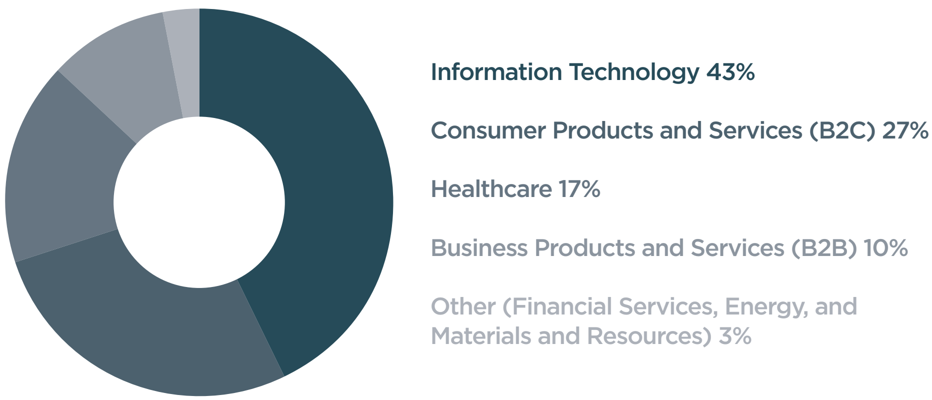
$7 million women-only founding teams

$7.7 million male-only founding teams

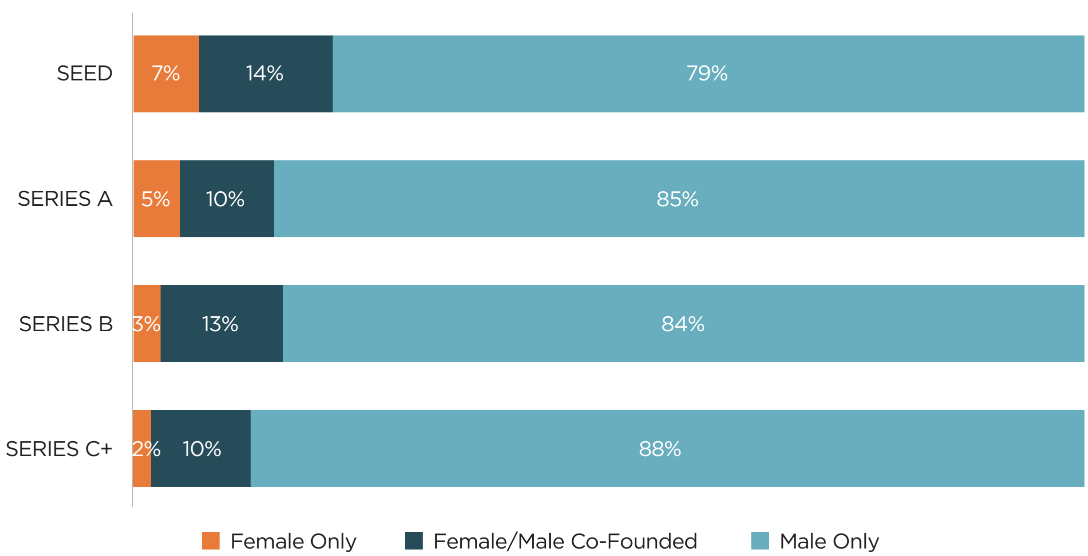
Women-founded companies received only 12% of VC dollars in 2019 for a total of $26.6 billion, consistent with 2017 funding levels but down from the 2018 high water mark of 17%:[156]

3% of dollars went to women-only founding teams, and 9% went to women/men co-founding teams.

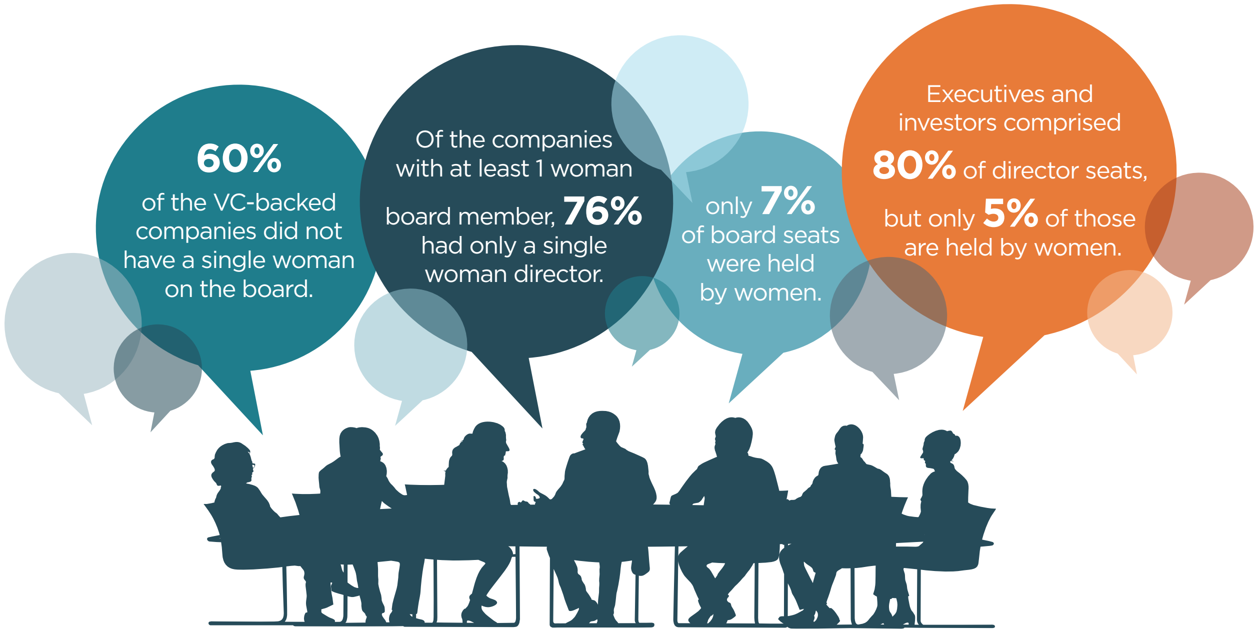
Women-founded startups receiving their first financing round are dispersed across a number of industries:[157]



By proportion of total dollar volume raised, women raised successively less at each stage of funding in 2019:[158]

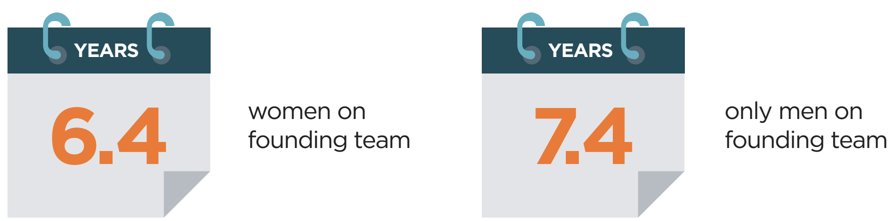


Women are also underrepresented in leadership roles in mature and later-stage companies. According to an analysis of 200 of the most heavily-funded private VC-backed companies:[159]

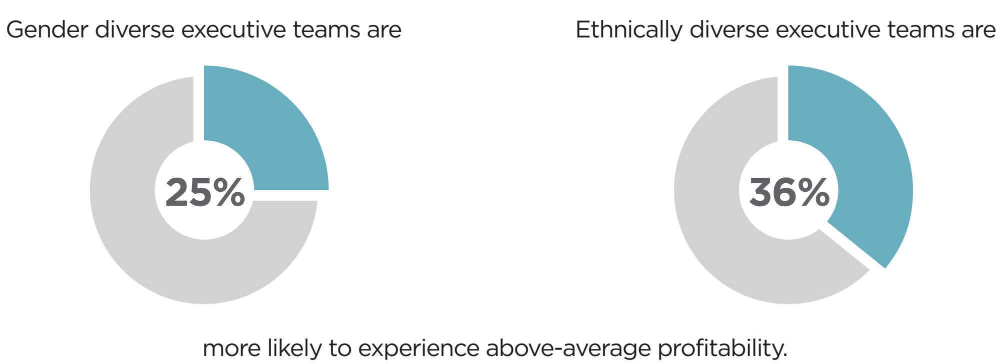


Why should investors care about investing in women-owned businesses?

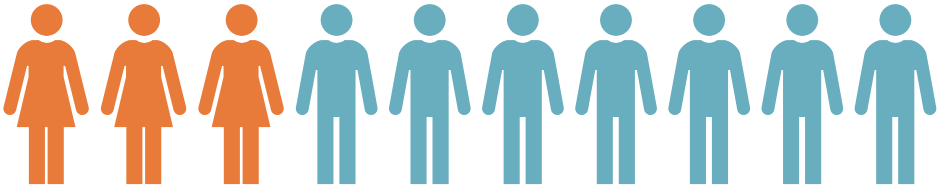
Companies with women on their founding teams on average exited 1 year faster than all-men founding teams, returning capital back to investors faster:[160]



Research on 1,000 large companies with annual revenues over $1.5 billion found that companies in the top quartile of diversity outperform the bottom quartile:[161]

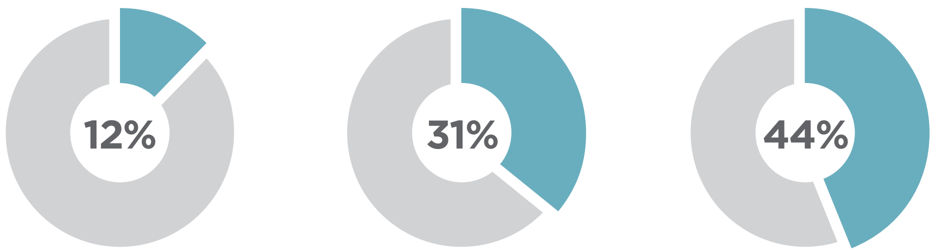


Women Investors in Small Businesses



29% of angel investors in 2019 were women (unchanged from 2018's level of 29.5%).[162]

Women are underrepresented in investor leadership roles within the VC industry:[163]

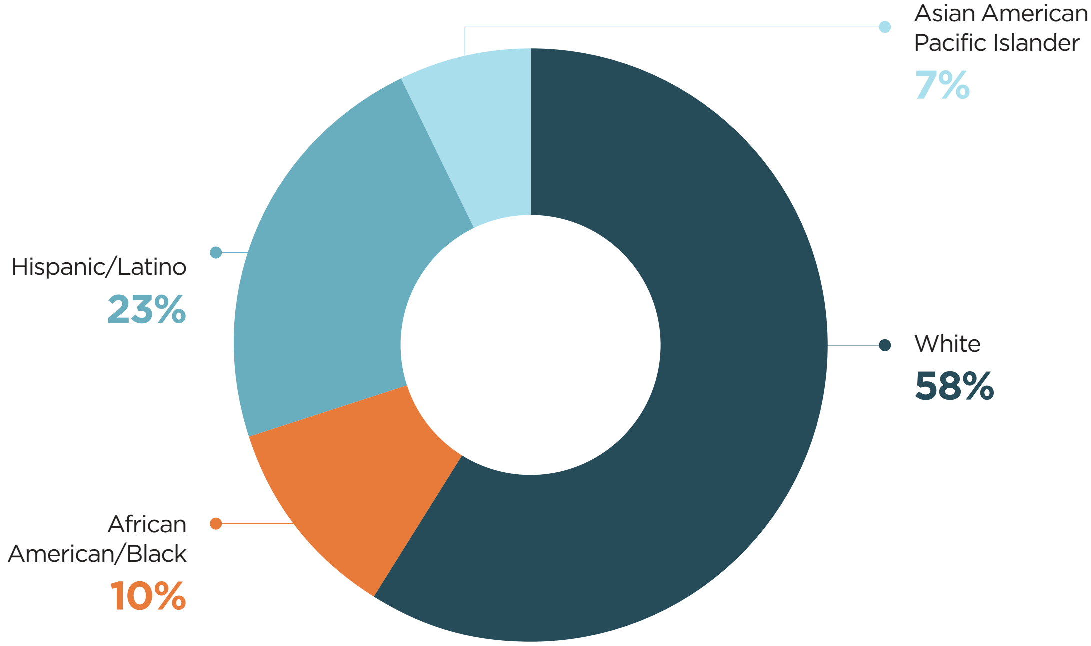


of decision-makers in VC firms are women.	of top quartile VC firms lack women decision-makers in GP leadership.	of LP firms lack women decision-makers.

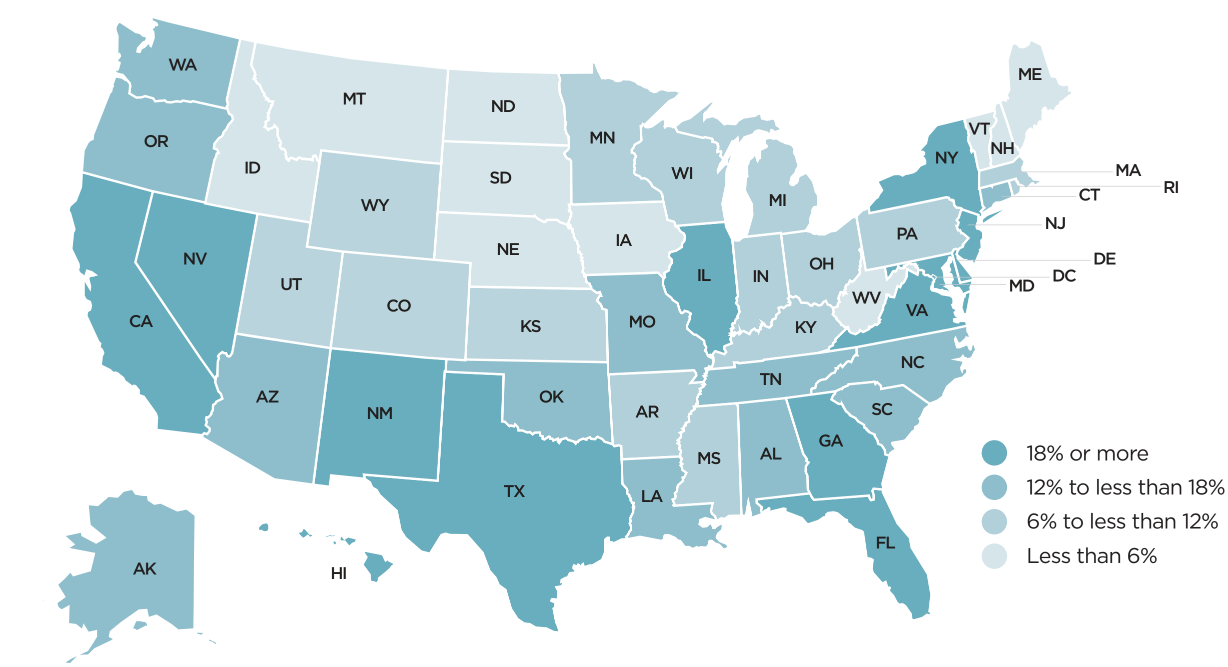
> Given studies that emphasize how female VC partners are twice as likely to invest in startups with at least one female founder and more than three times as likely to back startups with female CEOs, the discrepancy at the funder level is critical in this equation.
>
> PITCHBOOK & ALL RAISE[164]

Minority-Owned Businesses

New entrepreneurs in 2019 by race and ethnicity:[165]



What percentage of employer firms are owned by minorities?[166]



Minority-owned employer businesses have a significant impact on the economy:[167]

1.1 million

employer businesses

8.7 million

workers employed

99.99%

are small businesses

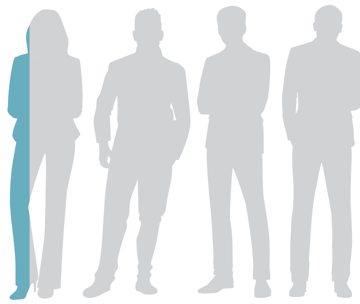
> Black people represent 12.7% of the U.S. population but only 4.3% of the nation's 22.2 million business owners. Because Black and White people show no underlying differences in characteristics that predict entrepreneurial success, this gap represents major untapped entrepreneurial potential across U.S. cities.
>
> ANDRE PERRY, JONATHAN ROTHWELL AND DAVID HARSHBARGER, THE BROOKINGS INSTITUTION[168]

What challenges do minority-owned businesses face in accessing capital?

Minorities constituted

9.3%

of entrepreneurs seeking capital in 2019



and had an investment yield rate of

28.2%

(up from 22% in 2018)

compared to a baseline rate of

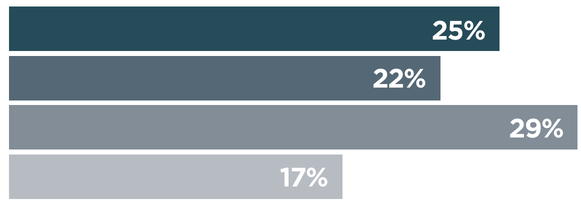
30.7%

(up from 23.2% in 2018).[169]

Minority-owned businesses continue to face challenges accessing financing and are more likely to be financially constrained:[170]

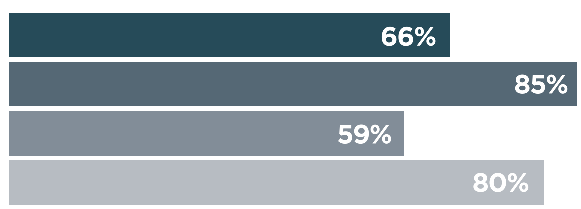
Hispanic/Latino · Asian American/Pacific Islander · African American/Black · White

Minorities are likely to use personal funds as their primary business funding source

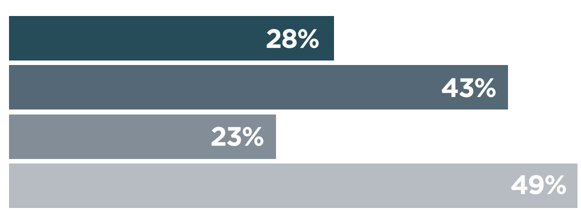


and are more likely to use personal funds in response to financial challenges.

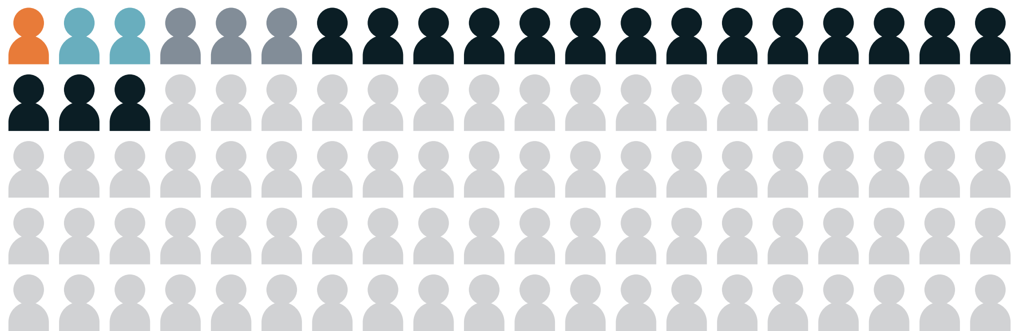
Credit approval ratings are generally lower for minorities



and when approved, minorities are less frequently approved for the full amount of their loan.

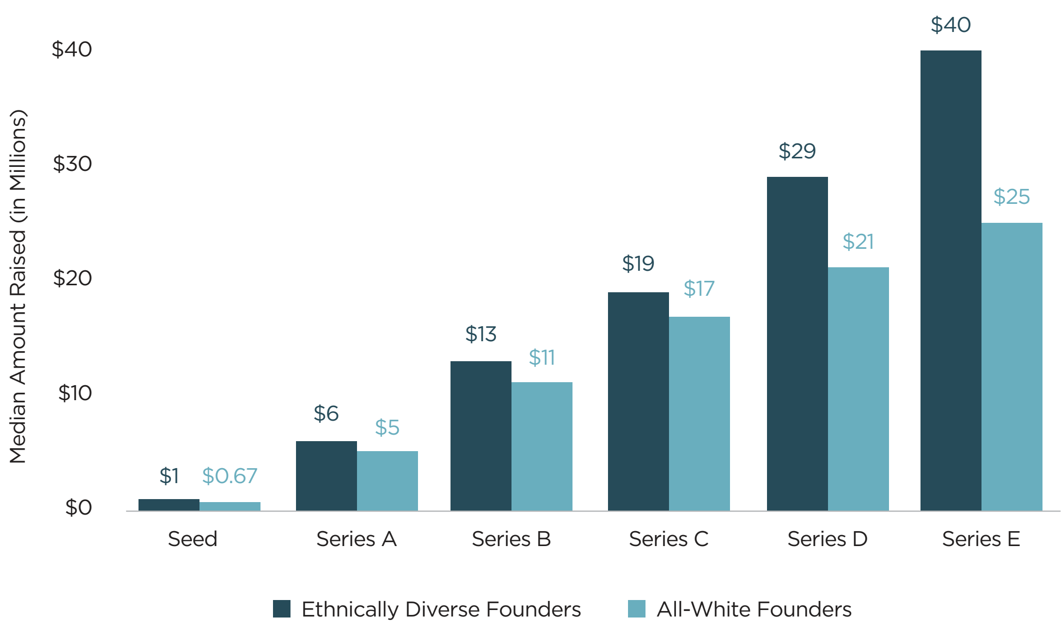


How are minority founders faring with capital raising?

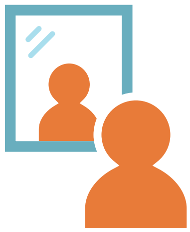


23% of VC-backed founders are African American/Black, Hispanic/Latino, Middle Eastern, or Asian American.[171]

While all-white founding teams raise the majority of funding rounds, when diverse founding teams do raise capital from VCs, they tend to raise more:[172]



Why should investors care about investing in minority-owned businesses?



Pattern matching persists:

Founders are **21%** more likely to be funded by an investor of the same ethnicity than of a different ethnicity.[173]

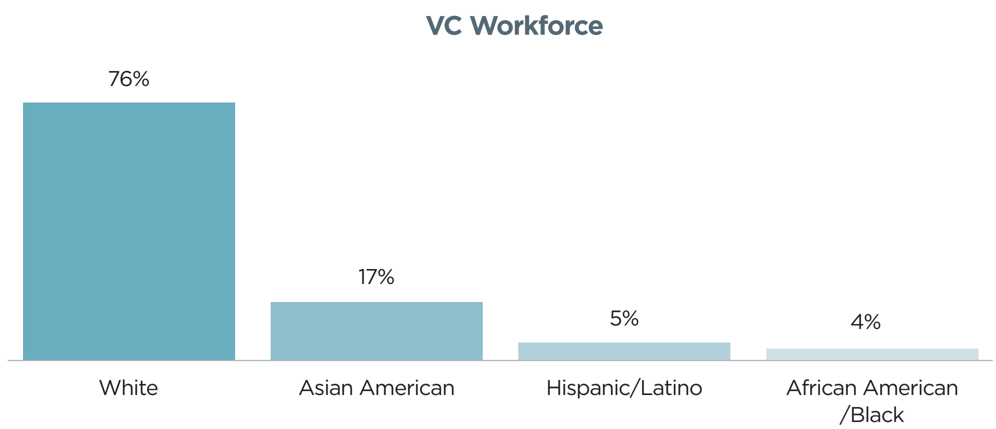
Investors in companies with ethnically diverse leadership teams have higher realized return multiples than they do from companies with all-white leadership teams:[174]

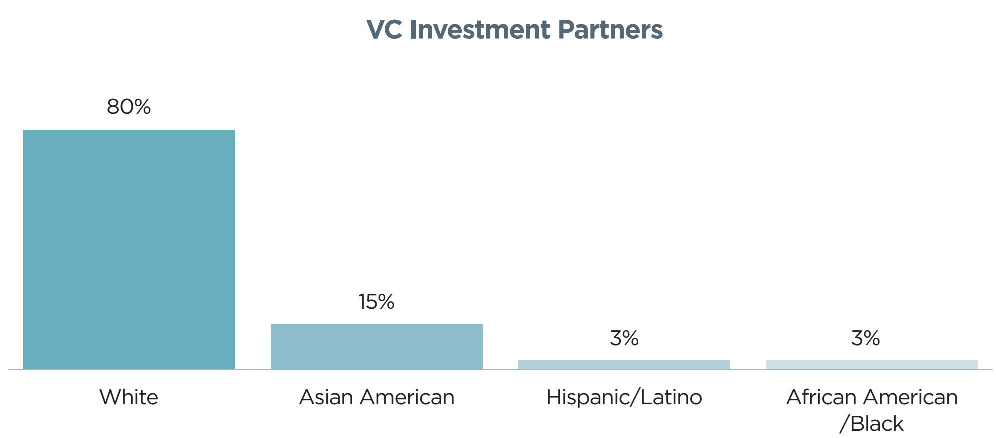
> Our data show that more than 75% of all rounds are raised by White Founding Teams. That means 3 out of 4 venture capital rounds are going to non-diverse teams, who will then go on and become repeat founders or venture partners if their companies are successful.
>
> MARLON NICHOLS, COLLIN WEST AND GOPINATH SUNDARAMURTHY OF KAUFFMAN FELLOWS[175]

Minority Investors

7% of angel investors in 2019 were minorities (up from 2018's level of 5.3%).[176]

Minorities remain underrepresented within the VC industry:[177]

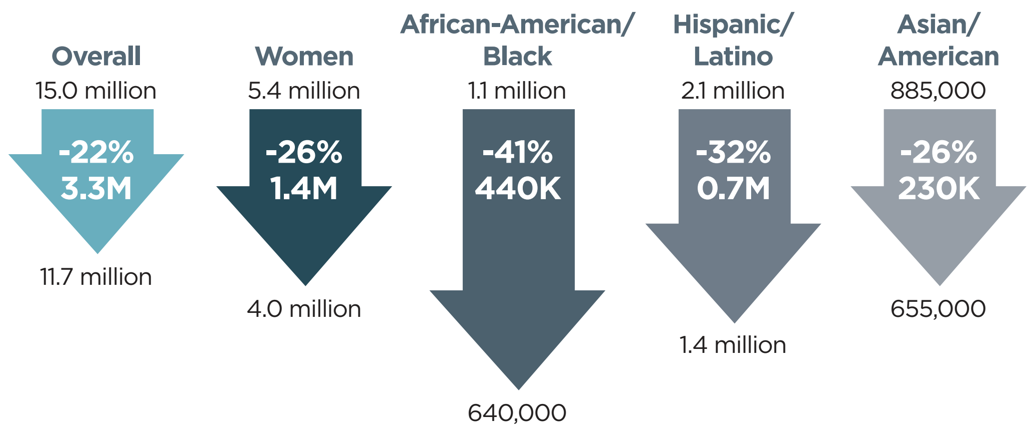




How has COVID-19 impacted underrepresented founders?

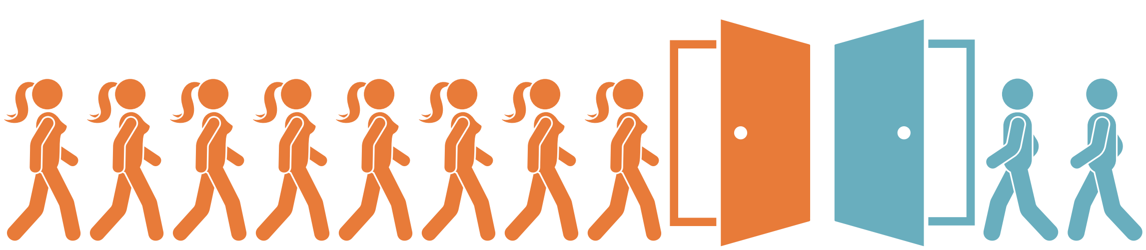
The pandemic and resulting economic crisis have highlighted and exacerbated preexisting inequities among historically underrepresented founders, including women and minorities. Data shows that founders in historically underrepresented groups have been disproportionately impacted.[178] Examining recent devastation to underrepresented founders' businesses caused by COVID-19 is critical to remediating long-term gender and racial inequities in capital formation.

The first months of the pandemic saw widespread closures of small businesses, with underrepresented businesses disproportionately forced to shutter their doors in response to COVID-19:[179]

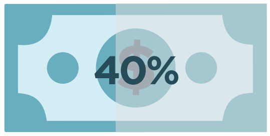


> "The disproportionate losses in April 2020 to the number of female business owners will only further increase gender inequality in business ownership and perhaps broader economic inequality.
>
> ROBERT W. FAIRLIE OF THE NATIONAL BUREAU OF ECONOMIC RESEARCH[180]

Between August and September of 2020, 865,000 women exited the labor force, compared to 216,000 men.[181] Women are exiting at a higher rate for a variety of reasons, including (1) industries disproportionately affected, (2) operation of smaller, younger, and more vulnerable businesses, and (3) increased childcare and family burdens with school closures:[182]

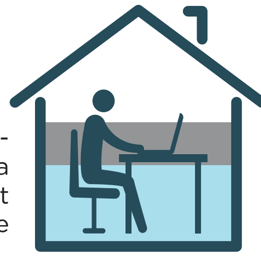


COVID-19 is impacting both founders and small businesses' workforces. Women- and minority-owned businesses are more likely to be negatively impacted by COVID-19 because of their industry sector, company resources, and scale of business:

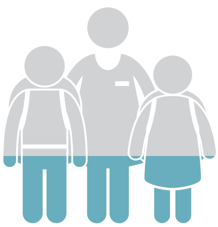


of revenues for black-owned businesses are in vulnerable sectors, compared with 25% for all firms.[183]

Only **28%** of scaled Latino-owned businesses have a majority of employees that can work from home



compared to **44%** of white-owned businesses.[184]



33%

of Hispanic/Latino parents and primary caregivers have either shut down their businesses or experienced significant revenue declines.[185]

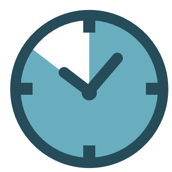
Quarterly VC funding for women founders hit a

3 year low

in September.[186]

37% of LGBTQ+

entrepreneurs have been impacted by difficulty accessing short-term capital.[187]



24% of LGBTQ+

entrepreneurs have been impacted by difficulty accessing long-term capital.[188]

> "
>
> VC activity for female and other historically underrepresented founders has seen some progress in recent years, but it remains far from parity. Historically, investors have heavily relied on network effects and pattern-matching to make investment decisions. [...] However, with investors turning their attention to existing portfolio companies and less likely to travel or hold in-person meetings, it will bring new challenges to founders who do not already have relationships with VC investors.
>
> NATIONAL VENTURE CAPITAL ASSOCIATION[189]

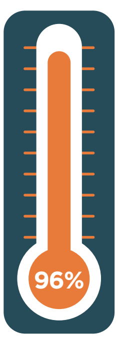
Natural Disasters and Capital Formation

When natural disasters strike, they often impact the survival prospects for the community's small businesses, which may have fewer resources to weather the challenges to rebuild and reinvigorate their customer base.

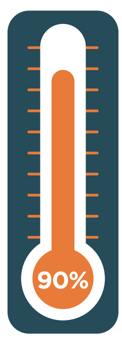
Where were the largest natural disaster events in the past year?

Between October 1, 2019 and September 30, 2020, there were 20 natural disaster events with losses exceeding $1 billion in U.S. states and territories:[190]

What is the impact of natural disasters on small businesses?

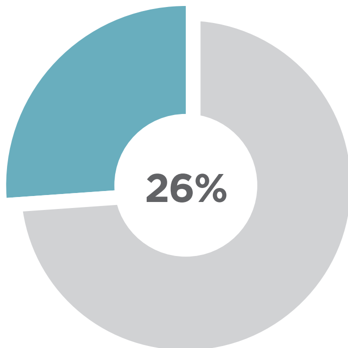


experience revenue losses.[191]



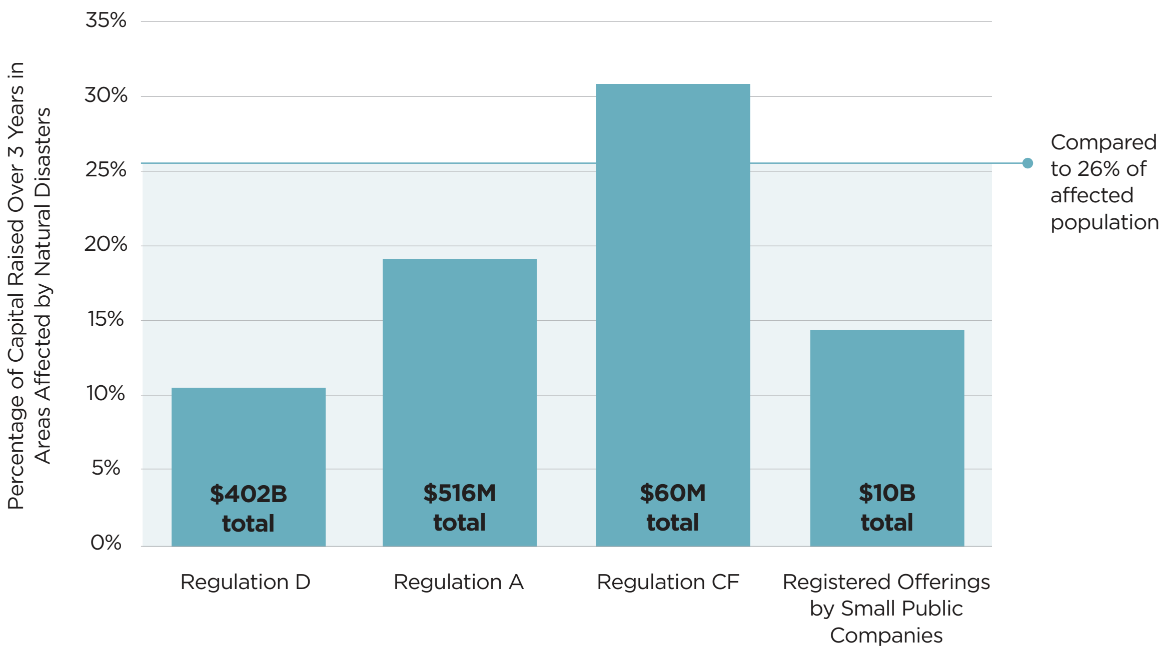
fail within a year unless they can resume operations within 5 days.[192]

How does the percentage of the population affected by natural disasters compare to the amount of capital being raised?



of the U.S. population[193] lives in an area that was affected by a natural disaster during the three years ending June 30, 2020.[194]

Businesses in areas affected by natural disasters over that three-year time period are generally raising less capital relative to the affected population, except with respect to offerings pursuant to Regulation Crowdfunding:[195]

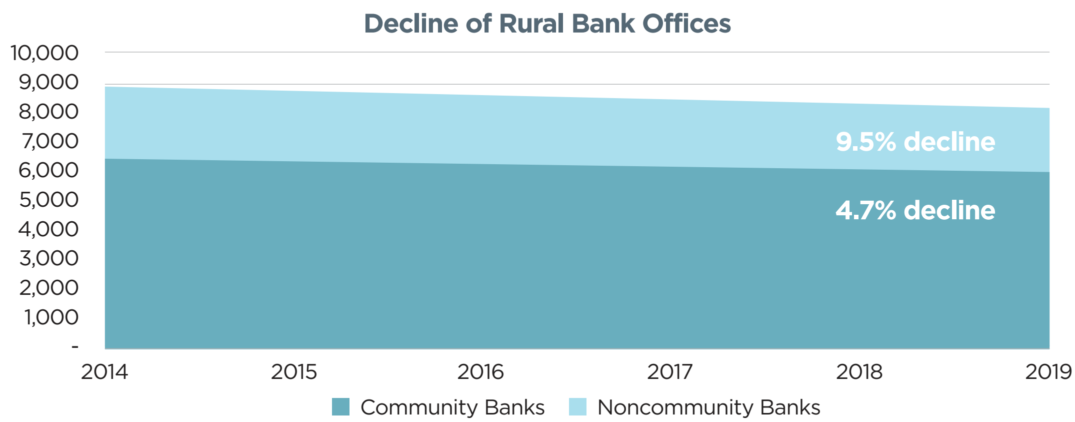


Rural Communities and Capital Formation

How do rural entrepreneurs access capital?

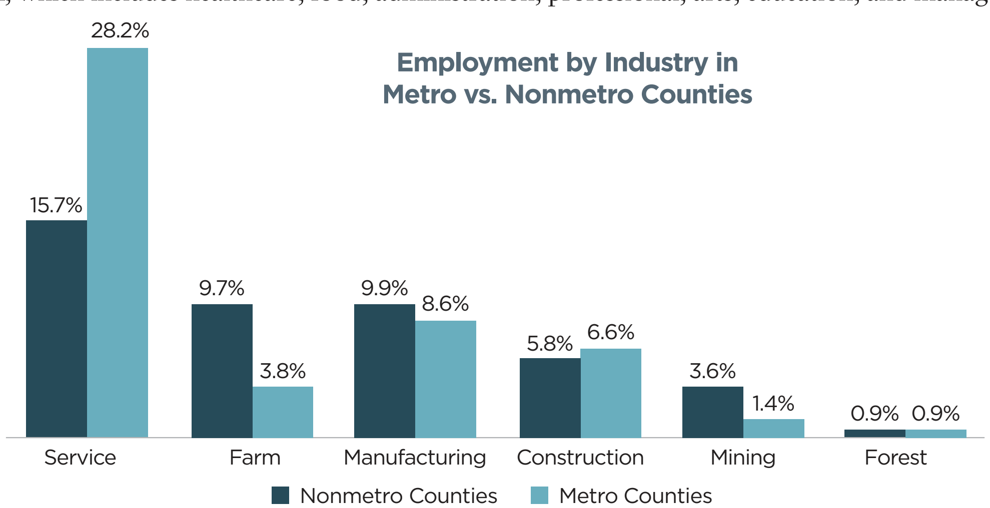
Rural entrepreneurs often rely on a diverse array of traditional and nontraditional capital sources to meet their financing needs.[196] These sources include, among others, community banks, Community Development Financial Institutions (CDFIs),[197] revolving loan funds, government-subsidized solutions,[198] angel/seed investors, and venture capital.

Community banks remain a key source of debt funding for rural businesses compared to noncommunity banks. From 2014 to 2019, rural communities saw a much larger decline in the number of offices of noncommunity banks than community banks:[199]



What sectors of the economy create jobs in rural communities?

While rural communities are often associated with the agricultural sector, employment in nonmetropolitan communities, including rural communities, is actually more heavily concentrated in the services sector, which includes healthcare, food, administration, professional, arts, education, and management:[200]



Where are rural businesses growing in number?

In 2018, 53% of rural counties in the U.S. saw an increase in the number of businesses. Rural counties in the Western U.S. led the growth, where the number of businesses increased by 2.4%. The five states with the highest rates of rural business growth were:[201]

How does the rural population compare to the amount of capital being raised?

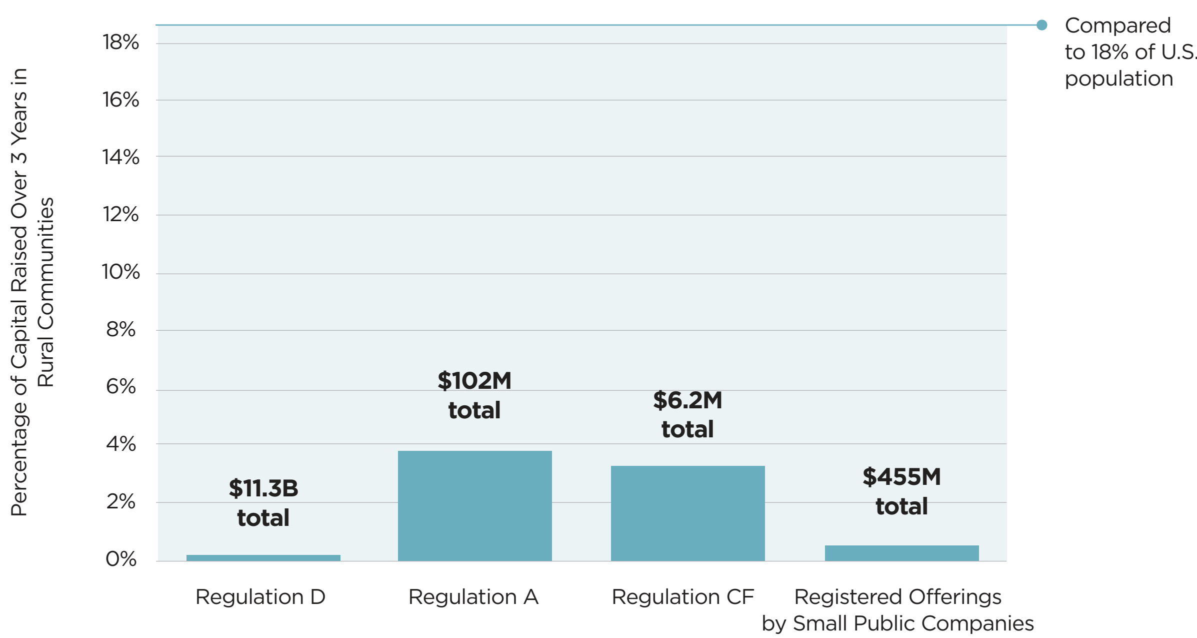
18%

of the U.S. population lives in rural areas.[202]

17%

of small employer firms are located in rural areas.[203]

However, over the three years ending June 30, 2020, businesses in rural areas[204] raised less capital relative to the U.S. population:



The concept of 'locavesting'—which refers to community investing—has been recognized as especially important in rural areas lacking investment capital since such areas often have strong economic ties to their local businesses.[205]

Policy Recommendations

Building upon last year's annual report,[206] the Office developed the following policy recommendations for Congress and the Commission to consider based upon feedback received through hundreds of outreach events, phone calls, meetings, video conferences, and virtual coffees.

The recommendations set forth in this Report are crafted as pragmatic responses to the most significant issues impacting capital formation. Each recommendation includes background context, any recent Commission action, particular impact to demographic groups, and a potential solution.

The Office, together with the SEC's Atlanta Regional Office, convened thought leaders at Morehouse College to discuss barriers to entry for founders of color.

Education to Ease Challenges of Offering Complexity and Friction

No matter the industry, every company needs capital to build, grow, and scale. When that capital does not come from retained business earnings, personal savings, or debt financing, companies regularly look to the private markets to finance early-stage operations and development. Some founders do this with a single private financing in mind; others do so with aspirations of raising multiple rounds in preparation for becoming a public company. In both cases, raising capital through the private markets via exempt offerings is a necessary step in building the company. For the companies that will one day go public, the early-stage capital provides a foundation for the business to reach the size and maturity needed to go public. For the many other millions of small businesses that are not looking to become public companies, funding is critical for their development and for job creation in communities throughout the United States. It is important that we foster an environment where the next generation of publicly-traded companies can flourish just as much as the Main Street businesses who create the majority of net new jobs in the country each year.[207]

Last year's annual report noted that to comply with our securities laws in raising capital, marketplace participants tend to need either a law degree or access to sophisticated counsel who can help them navigate the rules, both of which carry a significant price tag and can be a barrier to entry. Those barriers to entry are exacerbated when looking at differences in personal wealth that may create additional hurdles for underrepresented founders.[208] Our report specifically highlighted the challenges created by the differing requirements among offering exemptions, as well as the uncertainties that come when transitioning from one offering exemption to another. We underscored that capital formation is negatively affected when the rules confuse not only the actors who are directly impacted by the rules—namely, businesses and investors—but also counsel on whom they rely for expert advice.

As a potential solution, we highlighted the SEC's May 2019 Concept Release on Harmonization[209] and identified guiding principles for the Commission to consider when looking to modernize, clarify, and streamline the regulations on the offer and sale of securities. In addition, we identified specific structural and regulatory changes that could be made to Regulation Crowdfunding to improve the offering structure for both investors and companies. Since then, the Commission proposed[210] and adopted[211] significant changes to the exempt offering framework that took into account the feedback we had been hearing and our recommendations. These changes are a positive step towards easing some of the friction in our exempt offering framework; however, the process of selecting the optimal exemption to raise capital remains a daunting task for many small businesses and their investors.

Potential Solution: Targeted Educational Programs

Education about the exempt offering framework, including the Commission's recent changes, supports a healthy investing ecosystem for both small businesses and their investors. Educational resources can help small businesses and their investors identify which options best fit their capital needs, risk tolerance, and long-term objectives. When crafting educational resources, we recommend the following:

- Provide small businesses and their advisors with information that helps promote compliance with the federal securities laws in an accessible and easily-comprehensible format.
- Equip investors with appropriate tools to understand what information and other rights they have under different types of offerings.
- Target audiences that face challenges in raising capital, such as minority- and women-owned small businesses[212] and businesses outside of traditional "hotspots" for capital raising, including in rural communities.[213]

Fireside chat at the National Venture Capital Association's Strategic Operations & Policy Summit in October 2019.

Regulatory Clarity to Bridge Networks between Founders and Investors

Many small businesses struggle with how to connect to investors with the right risk tolerance, industry experience, and investing objectives for their company. For many entrepreneurs and founding teams who want to raise capital, their personal networks lack investors with deep pockets. Women and minority founders in particular often have networks that are less likely to be high net worth, which can create additional barriers to entry as an entrepreneur.[214] Connecting with early-stage investors who bring relevant industry experience can positively impact a company's trajectory through mentorship, business relationships, and support with follow-on funding, but those investors may lie outside of a founder's personal network. The matchmaking services that these small businesses and investors seek often lies outside of the scope of services performed by registered broker-dealers, leaving a gap in the capital formation ecosystem.

Last year's annual report noted that small businesses and their investors need clarity on what role finders can play in providing services that fall short of requiring registration as a broker-dealer. For decades, founders have tried to connect with investors using a roadmap that could benefit from clear signage. In October 2020, the Commission proposed an order[215] that would permit natural persons to engage in certain limited activities involving accredited investors without registering with the Commission. As of the date of this Report, that proposed order has not been made final.

Potential Solution: Clear Finders Framework

We appreciate the feedback that small businesses, investors, and other market participants shared in response to the Commission's proposed order. The comments demonstrate the need for a clear framework to regulate finders, and many make suggestions to improve aspects of the proposal. We continue to hear that both small businesses and their investors would benefit from additional certainty in this space, and we encourage the Commission to finalize a framework that delineates the legal obligations of persons who match small businesses with investors. Certainty for market participants will encourage compliance with securities laws and provide clarity to investors on the protections in place when engaging with a finder.

Accredited Investor Definition

The definition of “accredited investor” largely determines for small businesses who is in their pool of potential investors, and for investors whether they are eligible to invest in many early-stage companies. Many of the offering exemptions limit participation to accredited investors or contain restrictions on participation by non-accredited investors.

Last year’s annual report identified as proposed solutions the refinement of the accredited investor definition to add alternative measures for evaluating investor sophistication. Since then, the Commission adopted final rules[216] in August 2020 that update the accredited investor definition to more effectively identify institutional and individual investors that have the knowledge and expertise to participate in exempt offerings. The final rules encourage continued feedback on additional professional criteria that could impart accredited status for individuals.

Pooled Vehicle Funding

Funding from accredited investors, including those who act as angel investors in small businesses, is only one piece of the early-stage capital puzzle. Small businesses also look for capital from private funds, such as venture capital funds and private equity funds that operate under various exemptions from registration. The increasing concentration of capital into larger, private funds has resulted in a growing unmet need among entrepreneurs looking for seed and early-stage capital, with larger funds finding it inefficient or lacking bandwidth to make multiple small investments.[217]

The Office’s Colin Caleb and Atlanta Regional Office’s Richard Best and Mark Youdell engage with attendees at the SEC’s Atlanta HBCU homecoming week event in October 2019.

We continue to hear about challenges that entrepreneurs face in accessing capital from funds, especially from women and minority entrepreneurs and from businesses located outside of venture capital hotspots.[218] Women and minority entrepreneurs often find themselves pitching to investors whose historical notion of successful entrepreneurship looks white and male, which aligns with the profiles of the majority of investment decision-makers.[219] Many such investors are “pattern matching,” or looking to replicate investments based on the profile of a “successful” founder who matches a predictable pattern, which often does not reflect the diversity of the talented founders making the pitch.[220] Pattern matching perpetuates a cycle that concentrates capital in limited geographies, ethnicities, genders, and educational backgrounds. Entrepreneurs located in parts of the country that are not traditional hubs for capital raising are likely to have to travel long distances—or move their companies—in order to access such capital. Last year’s annual report flagged many of these challenges.

Potential Solution: Support for Pooled Investment Vehicles

Increased diversity among fund managers, the location of funds, and the size of funds should improve access to capital for entrepreneurs, as well as opportunities for investors to support a more diverse pool of talented entrepreneurs. We encourage Congress and the Commission to explore initiatives to increase diversity among investment decision-makers to help shift the pattern matching that historically has negatively impacted women and minority entrepreneurs. In addition, we encourage exploration of pathways to promote the formation of smaller, regional funds to facilitate the growth of sustainable regional ecosystems through locavesting.[221]

Attractiveness of Public Markets

It is critical that companies continue to view participating in our public markets as an attractive goal, and we continue to engage in conversations on how to encourage more companies to go public. When deciding whether to remain private or embark upon an IPO, most companies understandably weigh the costs—including costs of regulatory compliance—against the benefits—namely liquidity, ease of future capital raising, and a reputational boon.[222] Many aspects of our regulatory structure were originally targeted at the largest of public companies, and when applied to small public companies, they bear a disproportionate financial burden to assure compliance. This is added on top of the declining research coverage of small public companies, which creates liquidity challenges that incent private companies to delay becoming public until they reach a larger size and scale (which notably diminishes potential returns for public market investors). In many cases, it may encourage smaller private companies to consider an alternative exit, such as an acquisition.

In last year's annual report, we encouraged Congress and the Commission to continue to tailor the disclosure and reporting framework to scale the obligations of reporting companies to their complexity and scale of operations. Since then, the Commission has taken further action in this area through multiple rulemakings.[223]

Potential Solution: Foster the Public Company Environment

Congress and the Commission should continue to consider market innovations that could have the effect of incenting more companies to go public and to remain public. For example, 2020 saw innovations in the IPO process, including continued interest in the direct listing process. During the year, we also saw an increased number of public listings,[224] including a notable increase in offerings by special purpose acquisition companies (or SPACs).[225] While the relative advantages and disadvantages of these new processes remain to be fully explored, we are encouraged by the advancement of market innovations, and we support the Commission considering other innovations that will encourage more private companies to go public and thereby expand investment opportunities for retail investors.

For companies that are already publicly traded, it is important that they are motivated to stay public to maintain breadth of investment opportunities for investors. We encourage Congress and the Commission to regularly evaluate both sides of the regulatory coin: the rules that encourage private companies to become public, such as the emerging growth company accommodations, as well as the rules that support the many existing small public companies who are juggling increasing compliance costs alongside declining research coverage and liquidity concerns. Together they will inure to the benefit of our country's investors and the market at large.

Miami area entrepreneurs share their experiences raising capital with the Office's Martha Miller and Jessica McKinney during a January 2020 roundtable gathered by the Miami-Dade Beacon Council.

Small Business Capital Formation Advisory Committee FY2020 Summary

The Small Business Advocate Act established the SEC's Small Business Capital Formation Advisory Committee (Committee).[226] The Committee provides a formal mechanism for the Commission to receive advice and recommendations on Commission rules, regulations, and policy matters affecting small businesses, from emerging, privately-held companies to publicly-traded companies with less than $250 million in public market capitalization; trading in securities of such companies; and public reporting and corporate governance of such companies. The Office provides administrative support for the Committee, which otherwise functions independently.

In April 2019, the Commission appointed the inaugural members of the Committee.[227] The membership includes companies and investors from across a diverse set of experiences, industries, geographies, and company life cycle stages. In FY2020, two inaugural members of the Committee resigned: Terry McNew and Karen Mills. In addition, Melanie Senter Lubin succeeded Michael Pieciak's service as the North American Securities Administrators Association's representative, and William Manger succeeded Joseph Shephard as the Small Business Administration's representative. The Commission is grateful for their service and commitment to small businesses and their investors. Two new members were appointed by the Commission in FY2020 to fill vacancies: Kesha Cash and Sue Washer.[228] The members of the Committee as of the end of FY2020 are as follows:

CARLA GARRETT, *Chair*
Corporate Partner,
Potomac Law Group PLLC
Washington, DC

JEFFREY M. SOLOMON,
Vice Chair
Chief Executive Officer, Cowen, Inc.
New York, NY

GREGORY YADLEY, *Secretary*
Partner, Shumaker, Loop &
Kendrick, LLP
Tampa, FL

YOUNGRO LEE, *Assistant Secretary*
CEO and Co-Founder,
NextSeed
Houston, TX

KESHA CASH
Founder and General Partner,
Impact America Fund
Oakland, CA

GREG DEAN*
Senior Vice President of the Office
of Government Affairs, FINRA
Washington, DC

ROBERT FOX
National Managing Partner,
Professional Standards Group,
Grant Thornton LLP
Chicago, IL

STEPHEN GRAHAM
Co-Chair, Fenwick & West LLP's Life Sciences Practice
Seattle, WA

SARA HANKS
CEO and Co-Founder,
CrowdCheck, Inc.
Alexandria, VA

BRIAN LEVEY
Chief Business Affairs and Legal Officer, Upwork Inc.
Santa Clara, CA

MELANIE SENTER LUBIN*
Maryland Securities Commissioner for the Securities Division, Office of the Attorney General
Baltimore, MD

WILLIAM MANGER*
Chief of Staff and Associate Administrator for the Office of Capital Access; U.S. Small Business Administration
Washington, DC

SAPNA MEHTA
General Counsel & Chief Compliance Officer, Rise of the Rest Seed Fund; Associate General Counsel, Revolution
Washington, DC

MARTHA LEGG MILLER*
Director, Office of the Advocate for Small Business Capital Formation, U.S. Securities & Exchange Commission
Washington, DC

CATHERINE MOTT
Founder and CEO of BlueTree Capital Group, BlueTree Allied Angels, and BlueTree Venture Fund
Pittsburgh, PA

POORVI PATODIA
CEO and Founder,
Biena Snacks
Allston, MA

JASON SEATS
Chief Investment Officer,
Techstars
Austin, TX

MARC OORLOFF SHARMA*
Chief Counsel of the Office of the Investor Advocate, U.S. Securities & Exchange Commission
Washington, DC

HANK TORBERT
President,
AltaMax, LLC
New Orleans, LA

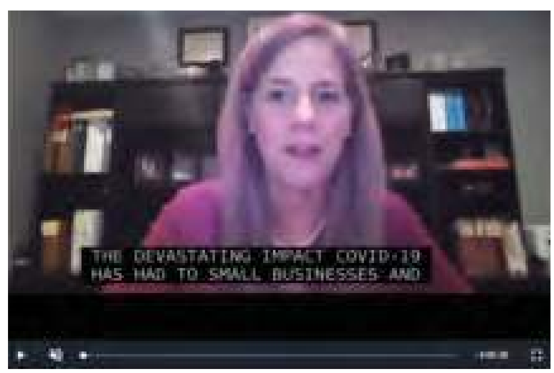
SUE WASHER
President and CEO, Applied Genetic Technologies Corporation
Gainesville, FL

*Committee members include the SEC's Advocate for Small Business Capital Formation and three non-voting members appointed by each of the SEC's Investor Advocate, the North American Securities Administrators Association (NASAA), and the Small Business Administration, as well as an observer appointed by the Financial Industry Regulatory Authority (FINRA).

Summary of Activities

The Committee met six times during FY2020: two in person, one telephonic, and three by video conference. Materials from meetings, including agenda, transcripts, and presentations, are available on the Committee's webpage.

Small Business Capital Formation Advisory Committee FY2020 Meetings	
November 12, 2019	Harmonization of the Exempt Offering Framework and Pooled Investment Funds
December 11, 2019	Harmonization of the Exempt Offering Framework (continued)
February 4, 2020	Exploration of Small Business Capital Markets Data and Challenges Faced by Small Businesses and Their Investors; and Local Capital Availability for Early-Stage Companies and the Role of Regional Funds
April 2, 2020	Ad Hoc Meeting in Response to COVID-19 Challenges Faced by Small Businesses
May 8, 2020	Capital Formation Proposal
August 4, 2020	Underrepresented Founders and Investors



[Top left] Members of the Committee discuss the exempt offering framework at the Committee's meeting at the SEC's Washington, DC headquarters on November 12, 2019.

[Top right] Chair Carla Garrett opens a video conference meeting. The Committee focused many of its discussions this year on the impacts of COVID-19 on small businesses.

[Bottom right] Members Jason Seats, Hank Torbert, Greg Dean, and Michael Pieciak engage in discussion.

Committee Recommendations

During FY2020, the Committee put forward the following six recommendations to the Commission:

Accredited Investor Definition

November 12, 2019

The Commission's Concept Release on Harmonization of Securities Offering Exemptions, Release No. 33-10649 (June 18, 2019) (Harmonization Concept Release)[229] included a discussion of whether the SEC should amend the accredited investor definition. With respect to the definition of "accredited investor" as set forth in Securities Act Rule 501(a) of Regulation D, the Committee recommends that the Commission:

1. Leave the current financial thresholds in place, subject to possibly adjusting such thresholds downwards for certain regions of the country.
2. Going forward, index the financial thresholds for inflation on periodic basis.
3. Revise the definition to allow individuals to qualify as accredited investors based on measures of sophistication. In doing so, the Commission should create bright line rules for qualifying as an accredited investor by sophistication, which could include professional credentials, work experience, education, and/or a sophistication test.

RELEVANT COMMISSION ACTION

On December 18, 2019, as part of its broader effort to consider ways to harmonize and improve the exempt offering framework under the Securities Act of 1933 (Securities Act), the Commission proposed amendments to the definition of "accredited investor" under Regulation D of the Securities Act to add new categories of qualifying natural persons and entities and to make certain other modifications to the existing definition.[230]

After receiving public comment on the proposal, on August 26, 2020, the Commission adopted final rules.[231] The amendments maintain the financial thresholds in the rule and also permit natural persons to qualify as accredited investors based on, among other things, certain professional certifications, designations, or credentials. The amendments also add new categories for "knowledgeable employees" of private funds and "family offices" with more than $5 million in assets under management and their "family clients." In a related order, the Commission designated holders in good standing of the Series 7 (Licensed General Securities Representative), Series 65 (Licensed Investment Adviser Representative), and Series 82 (Licensed Private Securities Offerings Representative) licenses as accredited investors.[232] Both the proposing release and adopting release referenced the Committee's recommendation to index the financial thresholds for inflation on a periodic basis. However, comments were mixed on this topic and the final rules did not include an indexing provision. The adopting release stated that the Commission will continue to monitor the size of the accredited investor pool, the characteristics of individual accredited investors who participate in the private markets, the appropriateness of the income and net worth thresholds, and, to the extent data is available, performance and incidence of fraud in exempt offerings, including in connection with the Commission's quadrennial review of the accredited investor definition required by the Dodd-Frank Act.

Members Brian Levey, Sapna Mehta, and Catherine Mott discuss during the Committee's development of recommendations on the accredited investor definition.

Retail Investor Access to Registered Closed-End Funds Investing in Private Funds

November 12, 2019

The Commission's Harmonization Concept Release included a discussion of whether the SEC should take steps to facilitate capital formation in exempt offerings through pooled investment funds and whether retail investors should be allowed greater exposure to private, growth-stage companies through pooled investment funds.

As part of such initiatives, the Committee recommends that the SEC remove the standard that registered closed-end funds investing more than 15% of their assets in private funds must limit their sales to accredited investors.

RELEVANT COMMISSION ACTION

On November 2, 2020, the Commission adopted final rules to simplify, harmonize, and improve certain aspects of the exempt offering framework to promote capital formation, while preserving or enhancing important investor protections.[233]

Committee members Youngro Lee, Greg Yadley, Sara Hanks, Sapna Mehta, and Catherine Mott engage in discussion with fund experts during the November 12, 2019 meeting.

Among other things, these final rules increase the offering limits for Regulation A, Regulation Crowdfunding, and Rule 504 offerings; revise certain individual investment limits; and permit the use of certain special purpose vehicles to facilitate investing in Regulation Crowdfunding issuers. In addition, as described in connection with the accredited investor recommendation above, the Commission adopted final rules that, among other things, add additional means for individuals to qualify as accredited investors and participate in private offerings, including certain private funds.

Chairman Clayton has also expressed interest in exploring options for increasing opportunities for retail investors to invest in private markets, including through professionally managed funds, on terms similar to those available to institutional investors, and on a diversified basis.[234] The Director of the Division of Investment Management has emphasized the importance of expanding public access to private markets as well, and has solicited feedback from fund sponsors, investors, and other market participants on how closed-end funds of private funds could help enhance such access, including with respect to appropriate structures for these investments, criteria that would promote access to high quality private market investments, and ways to avoid an extra layer of fees and expenses.[235]

Regulation Crowdfunding

December 11, 2019

The Committee continued its discussion of topics covered in the Commission's Concept Release on Harmonization of Securities Offering Exemptions, Release No. 33-10649 (June 18, 2019).

With respect to Regulation Crowdfunding, the Committee recommends that the Commission:

1. Streamline and tier the compliance obligations, including at what offering amounts issuer reporting and financial statement audit and review obligations are triggered;
2. Raise the $1.07 million per year offering limit;
3. Remove limits on accredited investors' investment amount;
4. Change investment limits to apply on a per investment basis rather than using annual investment limits, and calculate those limits based upon the greater, rather than lesser, of income or net worth;
5. Allow eligible investors to invest through special purpose vehicles; and
6. Allow greater flexibility in portal compensation.

RELEVANT COMMISSION ACTION

As described above, on November 2, 2020, the Commission adopted a set of rule amendments that, among other things, raise the offering limit in Regulation Crowdfunding from $1.07 million to $5 million, permit the use of special-purpose vehicles that function solely as a conduit to invest in a business raising capital under Regulation Crowdfunding, and increase the investment limits applicable to investors in Regulation Crowdfunding offerings by no longer applying those limits to accredited investors and allowing non-accredited investors to rely on the greater of their income or net worth in calculating their investment limit.

The proposing release also requested comment with respect to the Regulation Crowdfunding thresholds for different tiers of financial statement requirements. On May 4, 2020, the Commission adopted temporary final rules under Regulation Crowdfunding to facilitate capital formation for small businesses impacted by COVID-19, which include, among other things, an exemption from certain financial statement review requirements for issuers offering $250,000 or less of securities in reliance on Regulation Crowdfunding within a 12-month period.[236] On August 28, 2020, the Commission extended that relief for offerings initiated through February 2021.[237] While the Commission did not adopt permanent changes to the financial statement thresholds, the November 2, 2020 final amendments extend the $250,000 threshold through August 2022.

Chair Carla Garrett and Vice Chair Jeff Solomon at the February 4, 2020 meeting, discussing the availability of capital in different geographic regions.

Harmonization General Principles

December 11, 2019

The Committee continued its discussion of topics covered in the Commission's Concept Release on Harmonization of Securities Offering Exemptions, Release No. 33-10649 (June 18, 2019).

The Committee supports harmonization of the exempt offering framework and recommends that the Commission harmonize the exempt offering framework with the following principles in mind:

a. The exempt offering framework should be clear, concise, and effective for small businesses to raise capital;
b. The exempt offering framework should be simple and easy to understand, thereby making it less complex for small businesses to raise capital;
c. The elements of the current exempt offering framework that are functioning well should be maintained, and therefore, the Commission should "do no harm" to Rule 506(b) of Regulation D; and
d. Integration should be revised so that the exemptions can be better utilized.

RELEVANT COMMISSION ACTION

As described above, on November 2, 2020, the Commission adopted a set of rule amendments to simplify, harmonize, and improve certain aspects of the exempt offering framework to promote capital formation, while preserving or enhancing important investor protections.

Member Poorvi Patodia shares details about her company's experiences during the early months of the COVID-19 pandemic.

The amendments generally retain the current exempt offering structure, but reduce potential friction points and seek to close gaps and reduce complexities in the exempt offering framework that may impede access to investment opportunities for investors and access to capital for businesses and entrepreneurs. Among other changes, the final rules establish a new integration framework that provides clarity with respect to issuers' ability to successively raise capital under different exemptions.

Capital Formation Proposal

May 8, 2020

The Committee generally supports the proposed changes to the exempt offering framework set forth in the Capital Formation Proposal, specifically:

1. Increasing annual offering limits, allowing issuers to raise up to:
    - $5 million using Regulation Crowdfunding;
    - $10 million using Rule 504 of Regulation D; and
    - $75 million using Tier 2 of Regulation A.
2. Creating an exemption from general solicitation for "demo days" and similar pitch events under proposed Rule 148.
3. Creating new ways for issuers to test the waters to gauge market interest prior to incurring offering expenses by allowing:
    - Generic solicitation of interest materials for issuers to "test the waters" for an exempt offer prior to determining which exemption it will use; and
    - Regulation Crowdfunding issuers to "test the waters" prior to filing an offering document with the SEC.
4. Harmonizing what disclosures are provided to investors, including aligning the non-accredited investor financial disclosure requirements in Rule 506(b) offerings with the disclosure requirements of Regulation A.
5. Improving the utility of Regulation Crowdfunding by:
    - Increasing how much some individuals can invest by:
        - » Removing limits on how much accredited investors can invest; and
        - » Basing non-accredited investor limits on the greater, not lesser, of their income or net worth;
    - Allowing investors to pool their funds together in a special purpose vehicle to invest in a Regulation Crowdfunding offering; and
    - Aligning the types of securities eligible for offer under Regulation Crowdfunding to correspond with the eligible securities in Regulation A offerings.

The Committee also encourages the Commission to clarify the basis for determining accredited investor status in Regulation Crowdfunding offerings.

6. Reducing the complexities across the offering framework by adopting an integration framework that consistently defines and clarifies integration, including by the new general principle and through the four proposed non-exclusive safe harbors. In addition, the Committee recommends that the Commission add more clarity around integration with respect to convertible notes and subsequent public offerings.

In addition to items included in the Capital Formation Proposal, the Committee encourages the Commission to:

a. Consider adding a micro-offering exemption, as referenced in question 64 of the Capital Formation Proposal, with fewer reporting requirements and restrictions for issuers;
b. Provide pathways for retail investors to invest in a wider range of small businesses through pooled investment vehicles; and
c. Adopt a clear framework for unregistered finders (as recommended by the prior SEC Committee on Small and Emerging Companies[238] and at SEC Small Business Forums[239]) in light of their role as intermediaries in fostering capital formation for smaller businesses.

RELEVANT COMMISSION ACTION

As discussed above, on November 2, 2020, the Commission adopted, among other things, rule amendments consistent with each of the Committee's specific recommendations numbered 1 through 6 above, other than the recommendation to align the types of securities eligible for offerings under Regulation Crowdfunding to correspond with the eligible securities in Regulation A offerings. Further, in response to comments received on the proposing release suggesting the addition of an accredited investor verification requirement in Regulation Crowdfunding, the Commission stated its belief in the adopting release that a verification requirement is unnecessary.

On October 7, 2020, the Commission proposed a limited, conditional exemption from broker registration requirements for "finders" who assist issuers with raising capital in private markets from accredited investors. The Commission requested public comment on all aspects of the proposed exemption.

Committee members greet one another before their meeting.

Underrepresented Founders and Investors

August 4, 2020

The Committee presented the following findings regarding how capital markets are serving underrepresented founders and investors, and in particular how minority- and women-owned businesses and funds face barriers to entry due to less access to capital than their peers:

- The Committee acknowledges that the country is at an inflection point with respect to confronting matters of racial equity and inclusion, and access to capital is a powerful tool to help achieve racial and economic equity.
- Inclusion in the development of new business and economic growth is important to our national well-being, particularly for minorities and women.
- As evidenced by the statistics[240] presented to the Committee during [its August 4, 2020] meeting, including that minority-owned and women-owned businesses have significantly less capital when starting a business compared with new white-owned businesses, the Committee acknowledges that the capital formation rules may include impediments for minorities and women to access the capital markets.
- Regulatory action to improve the current capital-raising system—in which minorities and women have been underrepresented and inadequately supported—is critical.
- The Committee supports regulatory revisions to the capital-raising rules and ecosystem that promote increased opportunities for diverse entrepreneurs and investors, particularly minorities and women, and asks the SEC to take leadership in the area.

Member Kesha Cash at the August 4, 2020 video conference meeting where the Committee discussed the need to promote increased opportunities for diverse entrepreneurs and investors.

RELEVANT COMMISSION ACTION

Over the course of 2020, the SEC heard from a variety of thought leaders on how the Commission can support improvements to diversity and inclusion, including in small business capital formation, as well as in the asset management industry. Further, the Commission published its first Diversity and Inclusion Strategic Plan for Fiscal Years 2020-2022[241] in collaboration with the SEC's Office of Minority and Women Inclusion as a blueprint to build upon to promote workforce diversity, inclusion, and opportunity, as well as supplier diversity, in light of the dynamic and ever-changing nature of the markets the SEC oversees. In the November 2, 2020 release that accompanies the amendments to the exempt offering framework mentioned above, the Commission stated:

> *We are mindful of concerns expressed in the Recommendation of the SEC Small Business Capital Formation Advisory Committee regarding how our capital markets are serving underrepresented founders and investors. The recommendation states that minority- and women-owned businesses and funds face barriers to entry due to less access to capital than their peers. We believe that the amendments adopted in this release will enable small businesses generally to access capital through exempt offerings more effectively and we encourage further specific, tangible suggestions for action by the Commission and are committed to continued engagement on this topic.*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END NOTES

1 *See* https://www.sec.gov/files/2019_OASB_Annual%20Report.pdf.

2 *See* https://www.sec.gov/files/Small%20Business%20Advocate%20Act%20of%202016-as%20amended.pdf.

3 The Small Business Advocate Act also established a Small Business Capital Formation Advisory Committee at the SEC. The Office uses the Committee's parameters to define the scope of small businesses that it serves.

4 The SEC conducts the Forum annually and prepares a report in accordance with the Small Business Investment Incentive Act of 1980 [15 U.S.C. 80c-1 (codifying section 503 of Pub. L. No. 96-477, 94 Stat. 2275 (1980))].

5 *See* https://www.sec.gov/virtualcoffee.

6 This graphic is based on DERA data. This graphic depicts amounts reported or estimated as raised from July 1, 2019 through June 30, 2020. Data on offerings under Regulations D and Crowdfunding is based on information reported by companies and was collected from EDGAR filings (new filings and amendments) on Forms D and C, respectively. Data on registered offerings was collected from Thomson Financial's SDC Platinum database. For offerings under Regulation Crowdfunding, except where specified otherwise, estimates of the number of offerings are based on offerings completed during this period as shown on progress updates on Form C-U; estimates of amounts raised are based on proceeds reported in progress updates filed on Form C-U during the report period. For offerings under Regulation A, except where specified otherwise, estimates of the number of offerings are based on offerings qualified during this period, excluding post-qualification amendments; estimates of amounts raised are based on proceeds reported in filings made during the report period. Capital raised is based on information reported by companies in Forms 1-Z, 1-K, 1-SA, 1-U, and offering circular supplements pertaining to completed and ongoing Regulation A offerings and post-qualification amendments, and for companies whose shares have become exchange-listed, information from other public sources. Estimates represent a lower bound on the amounts raised given the time frames for reporting proceeds following completed or terminated offerings and that offerings qualified during the report period may be ongoing. For the offerings that permit pooled investment funds, such as Rule 506(b) and (c) of Regulation D and registered offerings, the data includes offerings conducted by pooled investment funds.

7 "Other exempt offerings" includes estimated amounts raised under Section 4(a)(2), Regulation S, and Rule 144A for calendar year 2019. *See* note 600 in "Facilitating Capital Formation and Expanding Investment Opportunities by Improving Access to Capital in Private Markets," Rel. No. 33-10884 (Nov. 2, 2020), *available at* https://www.sec.gov/rules/final/2020/33-10844.pdf ("Amendments to Exempt Offering Framework") for a description of the methodology used to calculate this amount. We do not yet have data to provide an estimated amount raised under Section 4(a)(2), Regulation S and Rule 144A for the period through June 30, 2020.

8 17 C.F.R. § 227.100 *et seq.*; *see* https://www.sec.gov/smallbusiness/exemptofferings/regcrowdfunding.

9 *See* Amendments to Exempt Offering Framework, *supra* note 7.

10 17 C.F.R. § 230.504; *see* https://www.sec.gov/smallbusiness/exemptofferings/rule504.

11 *See* Amendments to Exempt Offering Framework, *supra* note 7.

12 Securities Act of 1933 § 3(a)(11), 17 C.F.R. § 230.147, and 17 C.F.R. § 230.147A; *see* https://www.sec.gov/smallbusiness/exemptofferings/intrastateofferings.

13 17 C.F.R. § 230.506(b); *see* https://www.sec.gov/smallbusiness/exemptofferings/rule506b.

14 *See* "Final Rule: Accredited Investor Definition," Rel. No. 33-10824 (Aug. 26, 2020), *available at* https://www.sec.gov/rules/final/2020/33-10824.pdf.

15 17 C.F.R. § 230.506(c); *see* https://www.sec.gov/smallbusiness/exemptofferings/rule506c.

16 17 C.F.R. § 230.251 *et seq.*; *see* https://www.sec.gov/smallbusiness/exemptofferings/rega.

17 *See* Amendments to Exempt Offering Framework, *supra* note 7.

18 15 U.S.C. § 77a, *et seq.*; *see* https://www.sec.gov/smallbusiness/goingpublic.

19 This graphic presents capital raised in registered, Regulation D and Regulation A offerings across the top six industries from July 1, 2018 through June 30, 2019. Offerings by non-pooled investment funds in other industries accounted for approximately $225 billion, $43 billion and $55 million in registered, Regulation D and Regulation A offerings, respectively. Regulation A and registered offerings were classified into industry groups based on the primary SIC code reported by the company. Industry groups were self-reported by companies on Form D. Differences in data sources and definitions may limit

the comparability of industry data. Offerings by pooled investment funds, which accounted for approximately $29 billion and $1.32 trillion in registered offerings and Regulation D, respectively, are excluded from this graphic. *See supra* note 6 for a description of how these amounts were reported or estimated.

20 The maps included in this section depict the amounts reported or estimated as raised by issuers, including pooled investment funds that report a primary location in the U.S., including U.S. territories, from July 1, 2019 through June 30, 2020. *See supra* note 6 for a description of how these amounts were reported or estimated.

21 *See* Board of Governors of the Federal Reserve System, "Monetary Policy Report" (Jun. 12, 2020) at 1, *available at* https://www.federalreserve.gov/monetarypolicy/files/20200612_mpr-fullreport.pdf ("In response to the public health emergency precipitated by the spread of COVID-19, many protective measures were adopted to limit the transmission of the virus. These social-distancing measures effectively closed parts of the economy, resulting in a sudden and unprecedented fall in economic activity and historic increases in joblessness.").

22 *See* Alexander W. Bartik, *et al.*, "How are Small Businesses Adjusting to COVID-19? Early Evidence from a Survey," National Bureau of Economic Research, (Apr. 2020 Working Paper) at 3, *available at* http://www.nber.org/papers/w26989.

23 *See* Board of Governors of the Federal Reserve System, *supra* note 21, at 2.

24 *See* National Venture Capital Association, "Startup Ecosystem Faces Capital Crunch over Coming Months" (Apr. 27, 2020) at 2, *available at* https://nvca.org/wp-content/uploads/2020/04/Startup-Ecosystem-Faces-Capital-Crunch-over-Coming-Months-5.pdf.

25 *See id*. at 12 ("The capital crunch in the industry will be felt across the board, but perhaps most acutely by founders and investors in historically underrepresented groups, in emerging venture ecosystems, and smaller (<$100 million) and new venture fund managers."); *see also* MetLife and U.S. Chamber of Commerce, "Small Business Coronavirus Impact Poll," (Jul. 29, 2020) at 6, *available at* https://www.uschamber.com/sites/default/files/metlife_uscc_sbi_coronavirus_impact_poll_july.pdf.

26 *See* Board of Governors of the Federal Reserve System, *supra* note 21, at 24.

27 *See* Raj Chetty *et al.*, "The Economic Impacts of COVID-19: Evidence from a New Public Database Built from Private Sector Data," *Opportunity Insights*, (Sept. 2020) at 3, *available at* https://fairmodel.econ.yale.edu/ec438/chetty1.pdf ("Most of the reduction in spending is accounted for by reduced spending on goods or services that require in-person physical interaction and thereby carry a risk of COVID infection, such as hotels, transportation, and food services, consistent with the findings of Diane Alexander & Ezra Karger, "Do Stay-at-Home Orders Cause People to Stay at Home? Effects of Stay-at-Home Orders on Consumer Behavior." Federal Reserve Bank of Chicago Working Paper No. 2020-12. The composition of spending cuts – with a large reduction in services – differs sharply from that in prior recessions, where service spending was essentially unchanged and durable goods spending fell sharply."); *see also* Bartik, *supra* note 22, at 3 ("Impacts also vary across industries, with retail, arts and entertainment, personal services, food services, and hospitality businesses all reporting employment declines exceeding 50 percent. Finance, professional services, and real estate related businesses have seen less disruption.").

28 Board of Governors of the Federal Reserve System, *supra* note 21, at 4.

29 This map illustrates the percentage change in open small businesses across the U.S. relative to January 2020 based on transaction data. *See* Chetty, *supra* note 27, at 12 ("We define small businesses as being open if they have a transaction in the last three days. We exclude counties with a total average revenue of less than $250,000 during the pre-COVID-19 period (January 4-31)."). Data is *available at* https://tracktherecovery.org/.

30 *See id*. at 12 ("We define small businesses as being open if they have a transaction in the last three days. We exclude counties with a total average revenue of less than $250,000 during the pre-COVID-19 period (January 4-31)."). *But see* Board of Governors of the Federal Reserve System, "Business Exit During the COVID-19 Pandemic: Non-Traditional Measures in Historical Context" (October 2020) at 2-3, *available at* https://www.federalreserve.gov/econres/feds/files/2020089pap.pdf (noting "[a] key challenge is distinguishing between temporary shutdown and permanent shutdown (death). . . . and that identifying deaths is more difficult in alternative data sources." Further noting that "the line between temporary and permanent shutdown may be blurry at times, as even temporary shutdown may have significant economic implications if it is prolonged or results in substantial business restructuring before reopening.").

31 *See* Chetty, *supra* note 27, at 12 ("We define small businesses as being open if they have a transaction in the last three days. We exclude counties with a total average revenue of less than $250,000 during the pre-COVID-19 period (January 4-31)."). Data is *available at* https://tracktherecovery.org/.

32 *See id*.

33 *See* Board of Governors of the Federal Reserve System, *supra* note 21, at 24 ("Small firms tend to be more financially constrained than larger firms. For example, bank account data suggest that roughly half of small businesses entered the COVID-19 crisis with cash reserves sufficient for fewer than 15 days of operations without revenue. Moreover, even under normal circumstances, many small firms face financial challenges and lack access to liquid financial markets, relying instead on bank loans, credit cards, and the personal resources of owners."). *See* also Diana Farrell, et al., "Place Matters: Small Business Financial Health Urban Communities," *JPMorgan Chase Institute*, (Sept. 2019) ("In the typical community…47 percent had two weeks or less of cash liquidity. […] In all majority Black or Hispanic communities, most small businesses had fewer than twenty-one cash buffer days."); *see also* Bartik, *supra* note 22, at 3 ("Second, our results suggest that many businesses are financially fragile. The median firm with expenses over $10,000 per month has only enough cash on hand to last for two weeks.").

34 *See* Hello Alice & GGV Capital Impact Report (Oct. 2020) *available at* https://alice-data-production.s3.us-east-2.amazonaws.com/data_reports/Hello_Alice_and_GGV_Capital.pdf. *See also* Bartik, *supra* note 22, at 3 (stating that small businesses on average reported having reduced their employees by 40% since January).

35 *See* Facebook and Small Business Roundtable, "State of Small Business Report" (May 2020), *available at* https://about.fb.com/news/2020/05/state-of-small-business-report/ (based on a survey of 86,000 small- and medium-sized business owners, managers, and workers).

36 *See* MetLife and U.S. Chamber of Commerce, "Small Business Coronavirus Impact Poll," (Jul. 29, 2020) at 2, *available at* https://www.uschamber.com/report/july-2020-small-business-coronavirus-impact-poll.

37 More information on the relief package is available at "The CARES Act Provides Assistance to Small Businesses," *U.S. Department of the Treasury*, *available at* https://home.treasury.gov/policy-issues/cares/assistance-for-small-businesses. *See also* "*Coronavirus Relief Options*," *U.S. Small Business Administration*, *available at* https://www.sba.gov/funding-programs/loans/coronavirus-relief-options.

38 *See* Justin Lahart, "Covid Is Crushing Small Businesses. That's Bad News for American Innovation," *The Wall Street Journal*, (Oct. 9, 2020) *available at* https://www.wsj.com/articles/covid-is-crushing-small-businesses-thats-bad-news-for-american-innovation-11602235804 ("In the Federal Reserve's third-quarter survey of senior loan officers, conducted in July, 70% of respondents reported tightening lending standards for small firms—the most since the fourth quarter of 2008, when the financial crisis struck."). The underlying data was obtained from the Federal Reserve Board's Senior Loan Officer Opinion Survey on Bank Lending Practices for July 2020, *available at* https://www.federalreserve.gov/data/sloos/sloos-202007.htm.

39 *Id*.

40 *See* "Founder Demographics & Capital Formation" section, *infra*.

41 See NSBA Small Business Survey, "Covid-19: The Path Forward," (Jul. 2020) *available at* https://nsba.biz/wp-content/uploads/2020/07/COVID-19-Path-Forward-Survey-July-2020.pdf. This survey was taken among 630 small-business owners June 16-23, 2020; *see* also The UPS Store, "Inside Small Business Survey," (2020) *available at* https://www.theupsstore.com/File%20Library/theupsstore/pr/theupsstore-inside-small-business-infographic-2020.pdf (reporting that 41% of small businesses changed or pivoted their business); *see* also The Visa Back to Business Study, "Global Small Business and Consumer Insights Powering Recovery Through Digital and Contactless Payments Amidst COVID-19," (2020) *available at* https://usa.visa.com/dam/VCOM/global/run-your-business/documents/visa-back-to-business-study.pdf (reporting that more than 67% of small and micro businesses in the U.S. pivoted to keep their business on track since the onset of COVID-19).

42 *See* The UPS Store, *supra* note 41.

43 *See* Rieva Lesonsky, "Pivoting Helps Small Businesses Thrive During COVID-19 Pandemic," *U.S. Chamber of Commerce*, (Sept. 1, 2020) *available at* https://www.uschamber.com/co/start/strategy/metlife-us-chamber-small-business-index-covid-19 *citing* https://www.uschamber.com/report/july-2020-small-business-coronavirus-impact-poll.

44 *See* Visa Back to Business Study, *supra* note 41. The Visa Back to Business Study was conducted by Wakefield Research between June 18 and June 29, 2020, among 250 small business owners at companies with 100 employees or fewer in each of the following markets: U.S., Germany, Canada, Ireland, Hong Kong, Singapore, Brazil, and UAE ("71% of small and micro businesses globally have found their local community to be "supportive" of their business.").

45 Aaron DeSmet *et al.* "Ready, Set, Go: Reinventing the Organization for Speed in the Post-COVID-19 Era," *McKinsey & Company*, (Jun. 26, 2020) *available at* https://www.mckinsey.com/business-functions/organization/our-insights/ready-set-go-reinventing-the-organization-for-speed-in-the-post-covid-19-era.

46 *See* NSBA Small Business Survey, *supra* note 41. The NSBA survey was taken among 630 small-business owners June 16-23, 2020.

47 *See* Miles Kruppa, "Hottest Silicon Valley Start-Ups Begin to Sell Themselves at a Discount," *Financial Times*, (May 1, 2020) *available at* https://www.ft.com/content/0a4a651e-8057-44f8-92e2-f23a89cd632a ("The start-ups in high demand tend to be those in sectors benefiting from the lockdown, such as telemedicine, cloud computing and collaboration software."); *see also* PitchBook-NVCA, "Venture Monitor Q3 2020," (Oct. 12, 2020) at 3, *available at* https://pitchbook.com/news/reports/q3-2020-pitchbook-nvca-venture-monitor (noting that the pandemic accelerated the adoption of fintech, edtech, and telemedicine innovations).

48 *See* Gwynn Guilford and Charity Scott, "Is it Insane to Start a Business During Coronavirus? Millions of Americans Don't Think So," *The Wall Street Journal*, (Sept. 26, 2020) *available at* https://www.wsj.com/articles/is-it-insane-to-start-a-business-during-coronavirus-millions-of-americans-dont-think-so-11601092841 ("Applications for the employer identification numbers that entrepreneurs need to start a business have passed 3.2 million so far this year, compared with 2.7 million at the same point in 2019, according to the U.S. Census Bureau. That group includes gig-economy workers and other independent contractors who may have struck out on their own after being laid off."); *see also* Lauren Bauer *et al.*, "Ten Facts about COVID-19 and the U.S. Economy," *The Brookings Institution*, (Sept. 17, 2020) *available at* https://www.brookings.edu/research/ten-facts-about-covid-19-and-the-u-s-economy/ (noting that by mid-August 2020 there were 56% more new business applications for high-propensity businesses (i.e., those new businesses that are most likely to become employers) than in mid-August 2019).

49 This data includes businesses that have conducted either a Regulation Crowdfunding offering or a parallel Regulation Crowdfunding and Rule 506(c) offering since May 2016. *See* Crowdfund Capital Advisors and Small Business and Entrepreneurship Council, "Regulation Crowdfunding by Congressional District: A Report Card," (Sep. 2020) *available at* https://crowdfundcapitaladvisors.com/regulation-crowdfunding-by-congressional-district-a-report-card/.

50 This graphic is based on DERA data. Because of lags in offering qualifications, withdrawals, and abandonments, for greater comparability, this analysis considers all initiated Regulation Crowdfunding offerings and does not exclude offerings that are subsequently withdrawn or abandoned.

51 The data in this graphic includes businesses that have conducted either a Regulation Crowdfunding offering or a parallel Regulation Crowdfunding and Rule 506(c) offering since May 2016. *See* Crowdfund Capital Advisors and Small Business and Entrepreneurship Council, *supra* note 49.

52 *See id*.

53 This graphic is based on DERA data. *See supra* note 6 for a description of the methodology used to calculate this data.

54 This graphic is based on DERA data. This graphic includes all industries that accounted for over five percent of the reported amounts raised by non-pooled fund issuers during one of the respective periods. Offerings by non-pooled fund issuers in other industries accounted for approximately $38.6 billion and $28.3 billion in the nine months ended 2019 and 2020, respectively. *See supra* note 6 for a description of the methodology used to calculate this data.

55 This graphic is based on DERA data. Because of lags in offering qualifications, withdrawals, and abandonments, for greater comparability, this analysis considers all initiated Regulation A offerings (whether qualified or not) and does not exclude offerings that are subsequently withdrawn or abandoned. Due to lags and bunching in proceeds data and temporary relief provided to Regulation A in March 2020, the dollar amounts in this graphic are based on the amounts sought (in $ million) in qualified Regulation A offerings and not on reported proceeds.

56 *Id*. This graphic includes all industries that accounted for over five percent of the aggregate amounts sought in qualified Regulation A offerings during one of the respective periods. Additional offerings accounted for approximately $229 million and $298 million in the nine months ended 2019 and 2020, respectively.

57 *See* Tom Zanki, "3 Ways the Pandemic has Changed how IPOs are Done," *Law 360*, (May 22, 2020) *available at* https://www.law360.com/articles/1275330/3-ways-the-pandemic-has-changed-how-ipos-are-done.

58 *See id*.

59 *See id*. *See also* Fabiane Goldstein, "Virtual IPOs: Temporary or Definitive Solution?," *IR Magazine*, (June 18, 2020) *available at* https://www.irmagazine.com/sell-side/virtual-ipos-temporary-or-definitive-solution; *see also* Crystal Tse, "IPOs Boom with Lasting Pandemic Effect on How Deals Get Done," *Bloomberg News*, (Jul. 14, 2020) *available at* https://news.bloomberglaw.com/corporate-governance/ipos-boom-with-pandemics-lasting-effect-on-how-deals-get-done; *see also* Joe Reinhardt, "Five Takeaways for Doing an IPO in the Pandemic," *Bloomberg Law*, (Nov. 9, 2020) *available at* https://news.bloomberglaw.com/securities-law/five-takeaways-for-doing-an-ipo-in-the-pandemic.

60 *See* Leah Hodgson, "Virtual IPO Roadshows could Become the New Post-Crisis Standard," *PitchBook*, (Jun. 10, 2020) *available at* https://pitchbook.com/news/articles/virtual-ipo-roadshows-post-crisis; *see also* Nina Trentman, "Companies Find a Lot to Like About Virtual IPOs," CFO Journal, *The Wall Street Journal*, (Jul. 2, 2020) *available at* https://www.wsj.com/articles/companies-find-a-lot-to-like-about-virtual-ipos-11593700622; and Tom Zanki, *supra* note 57.
61 *See* Nina Trentman, *supra* note 60.
62 *See* Crystal Tse, *supra* note 59.
63 *See id*.
64 *See* Tom Zanki, *supra* note 57.
65 *See* Leah Hodgson, *supra* note 60.
66 *See* Tom Zanki, *supra* note 57.
67 *See* Crystal Tse, *supra* note 59. *See also* Tom Zanki, *supra* note 57.
68 *See* Scott Murdoch and Joshua Franklin, "Virtual Certainty? Bankers Ask if Success of Remote Roadshows will Last," *Reuters*, (Jun. 5, 2020) *available at* https://www.reuters.com/article/us-health-coronavirus-banks-roadshows/virtual-certainty-bankers-ask-if-success-of-remote-roadshows-will-last-idUSKBN23C0TM; *see also* Tom Zanki, *supra* note 57.
69 This graphic is based on DERA data.
70 This graphic is based on DERA data, excluding IPOs filed by pooled funds. *See also* Kristin Broughton and Mark Maurer, "Why Finance Executives Choose SPACs: A Guide to the IPO Rival," *The Wall Street Journal*, (Sep. 23, 2020) *available at* https://www.wsj.com/articles/why-finance-executives-choose-spacs-a-guide-to-the-ipo-rival-11600828201, *citing* data provider Dealogic.
71 *See* Joe Reinhardt, *supra* note 59. This graphic is based on DERA data, excluding IPOs filed by pooled funds. This graphic includes all industries that accounted for over five percent of the IPO proceeds during one of the respective periods. Additional offerings accounted for approximately $2.6 billion and $5.9 billion in the nine months ended 2019 and 2020, respectively. SPACs accounted for approximately 44% of the number of IPOs and 46% of the total IPO proceeds, each over the nine months ended September 30, 2020. A SPAC is a publicly traded company that raises cash for the purposes of acquiring a closely held firm and, through the deal, taking it public. SPACs often focus on companies within a particular industry. Deals for technology—particularly biotechnology—and transportation companies have been popular for SPACs recently. *See also* Kristin Broughton and Mark Maurer, *supra* note 70, citing data provider Dealogic.
72 *See* Kyle Stanford, "Alternative Sources of Financing for Startups," *PitchBook*, (Feb. 11, 2020) at 12, *available at* https://pitchbook.com/news/reports/q1-2020-pitchbook-analyst-note-alternative-sources-of-financing-for-startups ("VC is not a fit for all companies, business models or founder personalities. It begins an implicit, and sometimes very explicit, need for the company to produce hyper-growth-sized metrics to raise further capital and eventually exit at a huge valuation.").
73 *See* Kenan Institute, "Frontiers of Entrepreneurship 2020 Trends Report," (Jan. 2020) at 12, *available at* https://frontiers.unc.edu/index.php/trends-in-entrepreneurship-report.
74 Victor Hwang, *et al*., "Access to Capital for Entrepreneurs: Removing Barriers," *Ewing Marion Kauffman Foundation*, (April 2019) at 4, *available at* https://www.kauffman.org/wp-content/uploads/2019/12/CapitalReport_042519.pdf.
75 *See* Jessica Looze and Sameeksha Desai, "Challenges Along the Entrepreneurial Journey: Considerations for Entrepreneurship Supporters," *Ewing Marion Kauffman Foundation*, (May 2020) at 5, *available at* https://www.kauffman.org/wp-content/uploads/2020/05/Challenges-Along-The-Entrepreneurial-Journey.pdf. Percentages add to more than 100 because respondents could select multiple options.
76 *See* Kyle Stanford, *supra* note 72, at 2.
77 *See* Federal Reserve Banks, "2020 Report on Employer Firms: Small Business Credit Survey," (2020) at 6, *available at* https://www.fedsmallbusiness.org/medialibrary/FedSmallBusiness/files/2020/2020-sbcs-employer-firms-report. Percentages add to more than 100 because respondents could select multiple options.
78 *See* Kyle Stanford, *supra* note 72, at 3.
79 *See* Yuka Hayashi and Anthony DeBarros, "Emergency Grants to Small Businesses Average $4,360, Data Shows," *The Wall Street Journal*, (Apr. 22, 2020) *available at* https://www.wsj.com/articles/emergency-grants-to-small-businesses-average-4-360-data-shows-11587556783.
80 *See* Hello Alice, "The Impact of COVID-19 on Hispanic & Latinx Business Owners," (Sept. 2020) at 9, *available at* https://alice-data-production.s3.us-east-2.amazonaws.com/data_reports/latino_and_hispanic_business_report_covid19_impanct.pdf.
81 *See* Federal Reserve Banks, "2020 Report on Employer Firms: Small Business Credit Survey" (2020) at 7, *available at* https://www.fedsmallbusiness.org/medialibrary/FedSmallBusiness/files/2020/2020-sbcs-employer-firms-report.
82 *See* Darryl E. Getter, "Small Business Credit Markets and Selected Policy Issues," *Congressional Research Service*, (Aug. 20, 2019) at 9, *available at* https://crsreports.congress.gov/product/pdf/R/R45878.
83 *See* Gregory Brown *et al*., "Filling the U.S. Small Business Funding Gap," *Frank Hawkins Kenan Institute of Private Enterprise*, (Feb. 2020) at 7, *available at* http://uncipc.org/wp-content/uploads/2020/02/FundingGap_02042020.pdf.

84 *See* Darryl E. Getter, *supra* note 82, at 10-11.
85 *See id*. at 6.
86 *See* Kyle Stanford, *supra* note 72, at 9.
87 *See id*. at 10.
88 *See* Jeffrey Sohl, "The Angel Market in 2019: Commitments by Angels Increase with a Significant Rise in Deal Valuations," *Center for Venture Research*, (May 5, 2020).
89 Kyle Stanford, "Angels: Foundational Investors to VC," *PitchBook*, (Sep. 1, 2020) at 7, *available at* https://files.pitchbook.com/website/files/pdf/Q3_2020_PitchBook_Analyst_Note_Angels_Foundational_Investors_to_VC.pdf.
90 *See id*. at 10.
91 *See* PitchBook, "What Are The Private Markets?" (Nov. 1, 2018) at 13, *available at* https://pitchbook.com/blog/what-are-the-private-markets.
92 *See* CB Insights, "What is Venture Capital?" (2020) at 31, *available at* https://www.cbinsights.com/reports/CB-Insights_What-is-Venture-Capital.pdf?utm_campaign=marketing_what-is-vc_2020-05&utm_medium=email&_hsmi=88604078&_hsenc=p2ANqtz-9H9tu-foV2LjHkDYUcHskAdqOvNXH0jy8QvxK-Dgs2W693FgDiAgsQCkE2Xe5_pMrv_NP-Ggqme05NsvF-bU4bxuL3eoHfg&utm_content=88604078&utm_source=hs_automation.
93 *See* PitchBook-NVCA, "Venture Monitor Q4 2019," (Jan. 13, 2020) at 7, *available at* https://pitchbook.com/news/reports/q4-2019-pitchbook-nvca-venture-monitor.
94 *See id*. at 7 and 9.
95 *See id*. at 9.
96 *See* Startup Genome, "The Global Startup Ecosystem Report GSER 2020: The New Normal for the Global Startup Economy and the Impact of COVID-19," (June 2020) at 20, *available at* https://startupgenome.com/reports/gser2020.
97 *See* PitchBook-NVCA, *supra* note 47, at 7.
98 *See id*. at 8 ("First time equity financings have declined to just 23.7% of total completed financings in Q3 2020, compared with 27.3% in Q3 2019.").
99 *See* PitchBook, "2020 Venture Capital Outlook: H1 Follow-Up," (Jul. 6, 2020) at 2 ("The previous trajectory of increased valuations and deal activity for seed-stage companies has stalled in the last six months, as startups no longer have the leverage to command the frothy valuations they previously enjoyed. Seed-stage investors have also been focusing their efforts internally toward current portfolio companies, leaving less time for sourcing deals and performing due diligence.").
100 *See* PitchBook-NVCA, *supra* note 47, at 7.
101 *See id*.
102 *See* Wylie Fernyhough *et al*., "US PE Breakdown," PitchBook, (Oct. 8, 2020) at 4, *available at* https://files.pitchbook.com/website/files/pdf/PitchBook_Q3_2020_US_PE_Breakdown.pdf.
103 *See* CB Insights, *supra* note 92, at 35.
104 *See* Kyle Stanford and Darren Klees, "Analyst Note: The Effect of Capital Resources on Dealmaking: Can Patterns in VC Resources Help Pinpoint Underfunded Ecosystems?," *PitchBook*, (Nov. 15, 2019) at 3, *available at* https://files.pitchbook.com/website/files/pdf/4Q_2019_PitchBook_Analyst_Note_The_Effect_of_Capital_Resources_on_Dealmaking.pdf. The three metro areas include: San Jose-San Francisco-Oakland, CA (43%), New York-Newark, NY-NJ-CT-PA (16%), and Boston-Worcester-Providence, MA-RI-NH-CT (11%). The percentages are based on number of funds that have closed since 2015.
105 *See* Jason D. Rowley, "Inside The Ups And Downs Of The VC J-Curve," *Crunchbase News*, (Nov. 20, 2019) *available at* https://news.crunchbase.com/news/inside-the-ups-and-downs-of-the-vc-j-curve/#:~:text=Though%20there%20are%20exceptions%2C%20the,%2C%20in%20one%2Dyear%20increments (noting that general partners may negotiate extensions to a fund's lifespan, typically between one and three years, generally in one-year increments); *but see* Cameron Stanfill *et al*., "Analyst Note: Shadow Capital in Venture Investing: Estimating Nontraditional Investor Participation in VC Dealmaking," *PitchBook*, (Jun. 5, 2020) at 2, *available at* https://files.pitchbook.com/website/files/pdf/PitchBook_Q2_2020_Analyst_Note_Shadow_Capital_in_Venture_Investing.pdf (noting that nontraditional investors that have historically accessed venture capital in a limited partner capacity are doubling down on their direct venture capital investing practices).
106 *See* Stanfill, *supra* note 105, at 2 and 7 (also noting that the "diversity of nontraditional investor types and the strategies within those groups makes generalizing about the group extremely difficult").
107 *See id*. at 5 (noting that "[s]o far in 2020, corporate VC investors have participated in 55.5% of deal value despite participating in just 29.5% of completed deals, and SWFs have participated in 16% of deal value in while being present in just 1.2% of deals. Overall, U.S. venture deals with nontraditional participation added $106 billion and $96 billion worth of deal value to market totals in 2018 and 2019, respectively, representing more than 70% of total deal value participation each year by nontraditional investors").

108 *See id*. at 1.
109 *See* Josh Lerner and Ramana Nanda, "Venture Capital's Role in Financing Innovation: What We Know and How Much We Still Need to Learn," 34 *Journal of Economic Perspectives* 237-261 (Summer 2020) at 252, *available at* https://www.nber.org/system/files/working_papers/w27492/w27492.pdf.
110 *See* Kyle Stanford and Darren Klees, *supra* note 104, at 8-9 ("Companies looking for seed financings generally work through local investor networks first, while later stages generally require large funding vehicles that may not be located nearby. This trend holds distinctly in the data. The median distance between a target company and lead investor for late-stage deals in the U.S. notched over 400 miles so far in 2019, while the median distance for seed deals is just under 100 miles between the lead investor and target company."). The authors further note that "[f]unds tend to cluster in areas with investable companies rather than stationing themselves in promising areas with the hope of attracting founders to create new enterprises." *Id*. at 4.
111 *See id*. at 4.
112 *See* Michael J. Mauboussin and Dan Callahan, "Public to Private Equity in the United States: A Long-Term Look," *Morgan Stanley*, (Aug. 4, 2020) at 46, *available at* https://www.morganstanley.com/im/publication/insights/articles/articles_publictoprivateequityintheusalongtermlook_us.pdf?1607362418999.
113 *See* "Road to Next," *Deloitte*, (2020) at 7, *available at* https://www2.deloitte.com/content/dam/Deloitte/us/Documents/audit/us-audit-road-to-next-q2-2020.pdf.
114 *See* Silicon Valley Bank, "2020 Global Startup Outlook" (Feb. 2020) at 7, *available at* https://www.svb.com/globalassets/library/uploadedfiles/content/trends_and_insights/reports/startup_outlook_report/suo_global_report_2020-final.pdf.
115 *See* Josh Lerner and Ramana Nanda, *supra* note 109, at 240.
116 *See* Peter Iliev and Michelle Lowry, "Venturing Beyond the IPO: Financing of Newly Public Firms by Venture Capitalists," *The Journal of Finance*, (Jan. 2020) at 1, *available at* https://onlinelibrary.wiley.com/doi/full/10.1111/jofi.12879 ("In a sample of private firms that go public for the first time, 15% of the firms backed by VC financing prior to the IPO received additional funding from VCs within the first five years after the IPO. Approximately half of these post-IPO VC financings were from the same VC that funded the company prior to the IPO. Press releases on these financings provide suggestive evidence of their importance to the underlying companies.").
117 *See* Will Gornall, "Venture Capitalists and COVID-19," Harvard Law School Forum on Corporate Governance, (Sep. 1, 2020) *available at* https://corpgov.law.harvard.edu/2020/09/01/venture-capitalists-and-covid-19 (citing Paul Gompers, *et al*., "Venture Capitalists and COVID-19," (Oct. 2020) *available at* https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3669345).
118 *See id*.
119 *See* Deloitte, *supra* note 113, at 12.
120 *See* PitchBook-NVCA, *supra* note 47, at 9 ("Early-stage VC deal activity showed signs of rebounding in Q3 2020 with $9.2 billion raised across 657 deals . . . ." This compares to $8.2 billion raised over 764 deals).
121 *See id*. at 5, 11 (deals over $100 million have not seen much change, with 223 deals valued at $53.2 billion (of which 189 were late stage deals), which puts them relatively on par with 2019 (242 deals at $55.3 billion)).
122 *See id*. at 31.
123 *See id*. at 32.
124 *See* Cameron Stanfill, *et al*., "Analyst Note: 2020 Venture Capital Outlook: H1 Follow-Up," *PitchBook*, (Jul. 6, 2020) at 8-9, *available at* https://pitchbook.com/news/reports/2020-pitchbook-analyst-note-venture-capital-outlook-h1-follow-up.
125 *See* PitchBook-NVCA, *supra* note 47.
126 Data on U.S. listed domestic firms was estimated by DERA based on the Center for Research in Security Prices (CRSP) database. The analysis includes U.S. common stocks (share codes 10 and 11) listed on NYSE, NYSE MKT, and Nasdaq. The analysis excludes investment funds and trusts (Standard Industrial Classification codes 6722, 6726, 6798, and 6799). A company with several classes of shares is counted once. Data for 2020 represents the number of listed firms and market capitalization as of September 30, 2020. The numbers included in this graphic differ slightly from the graphic included in the Office of the Advocate for Small Business Capital Formation's Annual Report for Fiscal Year 2019 at 24 (note 69), which was based on World Bank Group Open Data.
127 *See* Michael J. Mauboussin and Dan Callahan, *supra* note 112, at 3.
128 *See id*. at 26.
129 *See id*. at 25.
130 *See id*. at 30.
131 *See id*. at 3. The amount included in the graphic for U.S. domestic equity mutual funds does not include $4.7 trillion in separately managed accounts.
132 *See id*. at 8 (examining data from 1984 to 2015).
133 *See id*. at 9 (examining data from 1984 to 2013).

134 This graphic is based on DERA data. Registered offering data was collected from Thomson Financial's SDC Platinum database. Small public companies include public companies with a size less than or equal to $250 million on the date of the offering, calculated by multiplying price of the company's stock at the close of the day of the offering by the number of outstanding shares on the day of the offering. Data from the Center for Research in Securities Prices (CRSP), Dealogic, and Compustat were used to fill in missing information from SDC Platinum. Mutual funds and Closed-end funds are excluded from the statistics. Those companies missing a stock price or number of outstanding shares are not included in the statistics.

135 *See* Michael J. Mauboussin and Dan Callahan, *supra* note 112 at 5.

136 *See id*. at 26.

137 *See id*. at 26 (stating that the percentage of small companies that grew into medium or large companies in the 1990's was between 15-20% and has now been cut in half).

138 *See id*. at 26; Chris Joseph, "What Are the Benefits of Becoming a Public Company?," *Houston Chronicle*, *available at* https://smallbusiness.chron.com/benefits-becoming-public-company-41667.html; *see also* Kenan Institute, *supra* note 73, at 26.

139 *See* Cameron Stanfill and Van Le, "Analyst Note: Index of Venture-Backed IPOs: An Analysis," *PitchBook*, (Aug. 13, 2020) at 3, *available at* https://files.pitchbook.com/website/files/pdf/PitchBook_Q3_2020_Analyst_Note_Index_of_Venture-Backed_IPOs_an_Analysis.pdf.

140 *See* PricewaterhouseCoopers, "Considering an IPO? First, Understand the Costs," *available at* https://www.pwc.com/us/en/services/deals/library/cost-of-an-ipo.html. These costs included fees related to underwriting, SEC registration, legal, accounting, FINRA, exchange listing, printing and miscellaneous. This data shows that for offerings with a deal value between $25 million and $99 million, the costs were a larger percentage of the deal value (10% to 15%) as compared to larger deals (generally between 6% and 10% of the total deal value).

141 *See* Michael J. Mauboussin and Dan Callahan, *supra* note 112 at 27; Kenan Institute, *supra* note 73, at 26.

142 *See* Cameron Stanfill *et al.*, "Analyst Note: Index of Venture-Backed IPOs: New Tools for Evaluating Price Performance of VC-Backed IPOs," *PitchBook*, (May 21, 2020) at 1, *available at* https://files.pitchbook.com/website/files/pdf/PitchBook_Q2_2020_Analyst_Note_Index_of_Venture-Backed_IPOs.pdf.

143 *See* Cameron Stanfill and Van Le, *supra* note 139, at 5.

144 *See* Michael J. Mauboussin and Dan Callahan, *supra* note 112, at 26.

145 *See* Josh Lerner and Ramana Nanda, *supra* note 109, at 5.

146 *See* Michael J. Mauboussin and Dan Callahan, *supra* note 112, at 48.

147 Registered equity offering data includes IPOs and registered secondary equity offerings and was collected by DERA from Thomson Financial's SDC Platinum database. Small public companies include public companies with a size less than or equal to $250 million on the date of the offering, calculated by multiplying price of the company's stock at the close of the day of the offering by the number of outstanding shares on the day of the offering. Data from the Center for Research in Securities Prices (CRSP) and Compustat was used to fill in missing information on price and outstanding shares from SDC Platinum. Those companies with missing a stock price on the offering day or number of outstanding shares are not included in the statistics. The offerings with missing data include: 44 IPO offerings in 2019 (18% of the total IPO offerings in 2019), 42 secondary equity offerings in 2019 (6% of the total registered equity offerings in 2019), 41 IPO offerings in 2020 (14% of the total IPO offerings in 2020), and 36 secondary equity offerings in 2020 (4% of the total registered equity offerings in 2020). Registered debt offerings have been excluded due to the omission of a significant portion of the relevant data in SDC Platinum, CRSP and Compustat databases to calculate the size of the registered debt issuers during this period.

148 *See supra* note 147 for a description of the methodology used to estimate registered equity offerings by small public companies. This graphic includes all industries that accounted for over five percent of the total proceeds raised in registered equity offerings by small public company during one of the respective periods, excluding offerings filed by pooled funds. Additional offerings for industries under five percent accounted for approximately $0.9 billion and $1.3 billion in the nine months ended 2019 and 2020, respectively. Offerings by pooled funds accounted for approximately 24 million and 100 million in the nine months ended 2019 and 2020, respectively.

149 *See* American Express, "The 2019 State of Women-Owned Businesses Report," (Sept. 2019), at 3, *available at* https://about.americanexpress.com/files/doc_library/file/2019-state-of-women-owned-businesses-report.pdf.

150 *See id*. at 4.

151 *See id*. at 6.

152 *See id*. at 7.

153 *See* Jeffrey Sohl, *supra* note 88 at 2.

154 *See* PitchBook-NVCA, *supra* note 93, at 25.
155 *See* Crunchbase, "Funding to the Female Founders," (Mar. 2020) at 13-14, 16, *available at* https://about.crunchbase.com/wp-content/uploads/2020/03/Funding-To-Female-Founders_Report.pdf; *see also*, International Finance Corporation, "Venture Capital and the Gender Financing Gap: The Role of Accelerators" (Feb. 2020), at 8, *available at* https://www.ifc.org/wps/wcm/connect/f62312ad-7ef5-4b90-b57d-6b793ae20a17/20200216-VC-WeFi-Research-Snapshot.pdf?MOD=AJPERES&CVID=n15lznn (noting that, for startups raising funds after participating in an accelerator, male-led startups raise 2.6 times more equity than female-led startups).
156 *See* Crunchbase, *supra* note 155, at 7.
157 *See* Ian Hathaway, "The Ascent of Women-Founded Venture-Backed Startups in the United States," *Center for American Entrepreneurship*, (Feb. 2019) at 16, *available at* http://www.startupsusa.org/women-founded-venture-backed-startups/.
158 *See* Gené Teare, "EoY 2019 Diversity Report: 20 Percent of Newly Funded Startups in 2019 Have a Female Founder," *Crunchbase*, (Jan. 21, 2020) *available at* https://news.crunchbase.com/news/eoy-2019-diversity-report-20-percent-of-newly-funded-startups-in-2019-have-a-female-founder/#:~:text=Diversity%20%E2%80%A2%20Venture-,EoY%202019%20Diversity%20Report%3A%2020%20Percent%20Of%20Newly%20Funded%20Startups,2019%20Have%20A%20Female%20Founder&text=We%20close%20out%20the%20decade,2019%20having%20a%20female%20founder.&text=The%20proportion%20of%20female%20co,which%20stood%20at%2010%20percent.
159 *See* Gené Teare, "2019 Study of Gender Diversity in Private Company Boardrooms," Crunchbase, (Dec. 11, 2019) *available at* https://news.crunchbase.com/news/2019-study-of-gender-diversity-in-private-company-boardrooms/.
160 *See* PitchBook and All Raise, "All In: Women in the VC Ecosystem," (Nov. 11, 2019) at 3, *available at* https://pitchbook.com/news/reports/2019-pitchbook-all-raise-all-in-women-in-the-vc-ecosystem.
161 *See* McKinsey & Company, "Diversity Wins: How Inclusion Matters," (May 2020) at 3-4, *available at* https://www.mckinsey.com/~/media/McKinsey/Featured%20Insights/Diversity%20and%20Inclusion/Diversity%20wins%20How%20inclusion%20matters/Diversity-wins-How-inclusion-matters-vF.pdf; *see also*, International Finance Corporation, *supra* note 155, at 11 (citing several recent studies showing that startups with diverse leadership teams outperform and generate better returns on equity compared to startups with non-diverse teams).
162 *See* Jeffrey Sohl, *supra* note 88, at 2.
163 *See* PitchBook and All Raise, *supra* note 160, at 25.
164 *Id*. at 24.
165 *See* Ewing Marion Kauffman Foundation, "Who is the Entrepreneur? Race and Ethnicity, Age, and Immigration Trends among New Entrepreneurs in the United States, 1996-2019," (2020) at 2, *available at* https://www.kauffman.org/entrepreneurship/reports/race-ethnicity-age-immigration-trends-united-states-entrepreneurs-1996-2019/ (compared to 74.3% White, 9.6% African American/Black, 12.2% Hispanic/Latino, 3.6% Asian American/Pacific Islander in 1999). Race and ethnicity groups were reported only for Asian, Black, Latino, and White.
166 *See* Small Business Administration Office of Advocacy, "Small Business Facts: Spotlight on Minority-Owned Employer Businesses," (May 2019) *available at* https://cdn.advocacy.sba.gov/wp-content/uploads/2019/05/31131339/Small-Business-Facts-Spotlight-on-Minority-Owned-Employer-Businesses.pdf.
167 *See id*.
168 Andre Perry *et al*., "Five-Star Reviews, One-Star Profits: The Devaluation of Businesses in Black Communities," *The Brookings Institution*, (Feb. 2020) at 11, *available at* https://www.brookings.edu/wp-content/uploads/2020/02/2020.02_DevOfBizInBlackCommunities_Perry-Rothwell-Harshbarger-final.pdf.
169 *See* Jeffrey Sohl, *supra* note 88, at 2.
170 *See* Alicia Robb, "Minority-Owned Employer Businesses and Their Credit Market Experiences in 2017," *SBA Office of Advocacy*, (Jul. 22, 2020) at 4, 22, 26, *available at* https://cdn.advocacy.sba.gov/wp-content/uploads/2020/07/22172533/Minority-Owned-Employer-Businesses-and-their-Credit-Market-Experiences-in-2017.pdf?utm_medium=email&utm_source=govdelivery.
171 *See* RateMyInvestor and Diversity VC, "Diversity in U.S. Startups," (Feb. 2019) at 8, *available at* https://ratemyinvestor.com/diversity_report (analyzing data on 10,000 founders and 135 venture firms).
172 *See* Marlon Nichols *et al*., "Deconstructing the Pipeline Myth and the Case for More Diverse Fund Manager," *Kauffman Fellows and MaC Venture Capital*, (Feb. 2020) *available at* https://www.kauffmanfellows.org/journal_posts/the-pipeline-myth-ethnicity-fund-managers.
173 *See* Kenan Institute, *supra* note 73, at 78.
174 *See* Marlon Nichols *et al*., *supra* note 172.

175 *Id*.

176 *See* Jeffrey Sohl, *supra* note 88, at 2; *see also*, Jeffrey Sohl, "The Angel Market in 2018: More Angels Investing in More Deals at Lower Valuations," *Center for Venture Research*, (May 9, 2019) at 3, *available at* https://scholars.unh.edu/cgi/viewcontent.cgi?article=1016&context=cvr#:~:text=The%20average%20angel%20deal%20size,%2C%20and%20subsequent%20valuations%2C%20decreased.

177 *See* NVCA and Deloitte, "Human Capital Survey," (2018) *available at* https://www2.deloitte.com/content/campaigns/us/audit/survey/diversity-venture-capital-human-capital-survey-dashboard.html. The survey methodology allowed for selection of more than one race.

178 *See* Robert W. Fairlie, "The Impact of COVID-19 on Small Business Owners: Continued Losses and the Partial Rebound in May 2020," *National Bureau of Economic Research*, (Jul. 2020 Working Paper) at 15, *available at* http://www.nber.org/papers/w27462; *see also* Claire Kramer Mills, "Double Jeopardy: COVID-19's Concentrated Health and Wealth Effects in Black Communities," *Federal Reserve Bank of New York*, (Aug. 2020) at 1 ("Black-owned firms are more likely to be located in COVID-19 hot spots, where as white-owned firms are less likely to be in the most heavily affected areas.").

179 *See* Robert W. Fairlie, *supra* note 178, at 21.

180 Robert W. Fairlie, "The Impact of COVID-19 on Small Business Owners: Evidence of Early-Stage Losses from the April 2020 Current Population Survey," *National Bureau of Economic Research*, (Jun. 2020 Working Paper) at 9, *available at* http://www.nber.org/papers/w27309.

181 *See* Abby Vesoulis, "'If We Had a Panic Button, We'd be Hitting it.' Women are Exiting the Labor Force en Masse—and that's Bad for Everyone," *Time*, (Oct. 17, 2020) *available at* https://time.com/5900583/women-workforce-economy-covid/.

182 *See* Tatiana S. Manolova, *et al.*, "Pivoting to Stay the Course: How Women Entrepreneurs Take Advantage of Opportunities Created by the COVID-19 Pandemic," *International Small Business Journal*, (2020) at 484, *available at* https://journals.sagepub.com/doi/10.1177/0266242620949136.

183 *See* McKinsey & Company, "COVID-19: Investing in Black Lives and Livelihoods," (Apr. 2020) at 14, *citing* "Survey of Business Owners (SBO) - Survey Results: 2012," U.S. Census Bureau, February 23, 2016, uscensus.gov, *available at* https://www.mckinsey.com/~/media/McKinsey/Industries/Public%20and%20Social%20Sector/Our%20Insights/COVID%2019%20Investing%20in%20black%20lives%20and%20livelihoods/COVID-19-Investing-in-black-lives-and-livelihoods-report.pdf.

184 *See* Stanford Graduate School of Business Latino Entrepreneurship Initiative, "The Ongoing Impact of COVID-19 on Latino-Owned Businesses," (Aug. 2020) at 8, *available at* https://www.gsb.stanford.edu/faculty-research/publications/ongoing-impact-covid-19-latino-owned-businesses (noting that this is due in part to the industries in which a substantial number of scaled Latino-owned businesses are located, namely construction, accommodation and food services, and retail trade).

185 *See* Gabriel R. Sanchez *et al.*, "COVID-19 is Having a Devastating Impact on the Economic Well-Being of Latino Families," *The Brookings Institution*, (Jul. 27, 2020) *available at* https://www.brookings.edu/blog/how-we-rise/2020/07/27/covid-19-is-having-a-devastating-impact-on-the-economic-well-being-of-latino-families/.

186 *See* Priyamvada Mathur, "Quarterly VC Funding for Female Founders Drops to Three-Year Low," *PitchBook*, (Oct. 8, 2020) *available at* https://pitchbook.com/news/articles/vc-funding-female-founders-drops-low (The funding challenges faced by women in 2020 followed a record 2019. For example, in the first quarter of 2019 VC funding hit a decade peak ($950 million across 207 deals) and the year ended up with a total of $3.35 billion invested over 709 deals. While VCs have only injected about $1.9 billion into female-founded companies so far this year.).

187 *See* Hello Alice Impact Report, "The Impact of COVID-19 on LGBTQ+ Business Owners," (June 2020) at 10, *available at* https://alice-data-production.s3.us-east-2.amazonaws.com/data_reports/20200908_LGBTQ%2B_Owned-CovidImpactReport.pdf.

188 *See id*.

189 National Venture Capital Association, *supra* note 24 at 12 ("The capital crunch in the industry will be felt across the board, but perhaps most acutely by founders and investors in historically underrepresented groups, in emerging venture ecosystems, and smaller (<$100 million) and new venture fund managers.").

190 *See* https://www.ncdc.noaa.gov/billions/.

191 *See* https://www.practicalbusinessskills.com/managing-a-business/planning-for-emergencies/disaster-preparedness (quoting the "2017 Small Business Credit Survey – Report on Disaster-Affected Firms," Federal Reserve Banks).

192 *See* https://www.fema.gov/media-library-data/1441212988001-1aa7fa978c5f999ed088dcaa815cb8cd/3a_BusinessInfographic-1.pdf.

193 Data from the U.S. Census Bureau, American Community Survey (ACS) was used by DERA to estimate the population in zip codes affected by the natural disasters as described in *infra* note 198. However, certain zip codes were identified as missing population values, so the percentage is likely underestimated.

194 This graphic is based on DERA data. Evaluated from July 1, 2017 to June 30, 2020 using zip codes affected by natural disasters. Zip codes designated as affected are defined as having one or more residents approved for housing assistance under FEMA's IHP program for natural disasters with classifications of Major Disaster Declaration and incident start dates between July 1, 2017 and June 30, 2020. Given the trailing impact caused by natural disasters, each zip code affected in that three year period was included. Classification of disaster areas are based on FEMA Disaster Declaration Summaries data and FEMA Housing Assistance Program Data at https://www.fema.gov/about/openfema/data-sets, updated on August 1, 2020. The classification method for disaster areas is based on the methodology in the "2017 Small Business Credit Survey – Report on Disaster-Affected Firms," Federal Reserve Banks of Dallas, New York, Richmond, and San Francisco, *available at* https://www.newyorkfed.org/medialibrary/media/smallbusiness/2017/SBCS-Report-on-Disaster-Affected-Firms.pdf.

195 Evaluated from July 1, 2017 to June 30, 2020 using zip codes affected by natural disasters as described in *supra* note 194.

196 *See* Appalachian Regional Commission, "Entrepreneurial Ecosystems in Appalachia, Literature Review" (Sept. 2018) at 23, *available at* http://www.arc.gov/wp-content/uploads/2018/09/EntrepreneurialEcosystemsLiteratureReview2018.09.pdf; *see also* Center on Rural Innovation, "The Power of Capital in Rural Entrepreneurship" (Sep. 22, 2020) *available at* https://ruralinnovation.us/access-to-capital/.

197 CDFIs are financial institutions that share a common goal of expanding economic opportunity in low-income communities by providing access to financial products and services for local residents and businesses. A CDFI may be a bank, credit union, loan fund, microloan fund or venture capital fund, https://www.cdfifund.gov/Documents/CDFI_infographic_v08A.pdf.

198 These include grants, loans, loan guarantees, and equity products offered by the Department of Commerce's Economic Development Administration, the Department of Treasury's CDFI Fund, the SBA, and USDA's Rural Development.

199 *See* "FDIC Quarterly— Quarterly Banking Profile: Fourth Quarter 2019" at 35, *available at* https://www.fdic.gov/bank/analytical/quarterly/2020-vol14-1/fdic-v14n1-4q2019-article.pdf.

200 *See* Center for American Progress, *Redefining Rural America*, (Jul. 17, 2019) at 2 and 4, *available at* https://cdn.americanprogress.org/content/uploads/2019/07/17050340/redefining-rural-america-_brief1.pdf. For purposes of this report, a rural area means a nonmetropolitan area.

201 *See* Daniel Wilmoth, PhD, "Growth in Number of Rural Establishments," *Office of Advocacy, U.S. Small Business Administration*, (Dec. 2019) *available at* https://cdn.advocacy.sba.gov/wp-content/uploads/2020/02/04111621/Rural-Business-Growth-Fact-Sheet1.pdf.

202 Data from the U.S. Census Bureau, American Community Survey (ACS), and the U.S. population growth rate from World Bank was used by DERA to estimate the population in zip codes in rural areas. Classification of rural areas are based on the list of 2019 Q4 rural area zip codes from the Center for Medicare & Medicaid Services, *available a*t https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/FeeScheduleGenInfo.

203 *See* The Board of Governors of the Federal Reserve System, "Small Business Credit Survey: 2019 Report on Employer Firms" (2019) at 29, *available at* https://www.fedsmallbusiness.org/medialibrary/fedsmallbusiness/files/2019/sbcs-employer-firms-report.pdf.

204 This graphic is based on DERA data. Classification of rural areas are based on the list of 2019 Q4 rural area zip codes from the Center for Medicare & Medicaid Services, as described in *supra* note 202.

205 *See* Amy Cortese, *Locavesting: The Revolution in Local Investing and How to Profit From It* (2011).

206 https://www.sec.gov/files/2019_OASB_Annual%20Report.pdf.

207 *See* Small Business Administration, Office of Advocacy, "Small Business Economic Bulletin: April 2020," *available at* https://cdn.advocacy.sba.gov/wp-content/uploads/2020/04/30103025/April-2020-Econ-Bulletin.pdf ("Small firms (fewer than 500 employees) accounted for 9.3 million net new private-sector jobs from 2005 to 2019, or 64 percent of the total. While job creation tends to fluctuate from one quarter to the next, small firms created more jobs than large firms in 8 of the last 12 quarters of available data.").

208 *See* Neil Bhutta *et al.*, "Disparities in Wealth by Race and Ethnicity in the 2019 Survey of Consumer Finances," *FEDS Notes, Board of Governors of the Federal Reserve System*, (Sept. 28, 2020) *available at* https://doi.org/10.17016/2380-7172.2797 ("White families have the highest level of both median and mean family wealth: $188,200 and $983,400, respectively. Black and Hispanic families have

considerably less wealth than White families. Black families' median and mean wealth is less than 15 percent that of White families, at $24,100 and $142,500, respectively. Hispanic families' median and mean wealth is $36,100 and $165,500, respectively.").

209 "Concept Release on Harmonization of Securities Offering Exemptions," Rel. No. 33-10649 (Jun. 18, 2019) *available at* https://www.sec.gov/rules/concept/2019/33-10649.pdf.

210 "Proposed Rule: Facilitating Capital Formation and Expanding Investment Opportunities by Improving Access to Capital in Private Markets," Rel. No. 33-10763, *available at* https://www.sec.gov/rules/proposed/2020/33-10763.pdf.

211 "Final Rule: Facilitating Capital Formation and Expanding Investment Opportunities by Improving Access to Capital in Private Markets," Rel. No. 33-10884, *available at* https://www.sec.gov/rules/final/2020/33-10844.pdf.

212 *See* "Founder Demographics & Capital Formation" section of the Report above.

213 *See* "Rural Communities and Capital Formation" section of the Report above.

214 *See Report on the 39th Annual Small Business Forum* (Jun. 18, 2020) *available at* https://www.sec.gov/files/2020-oasb-forum-report-final_0.pdf; *see also* Transcript of Small Business Capital Formation Advisory Committee Meeting (Aug. 4, 2020) *available at* https://www.sec.gov/info/smallbus/acsec/sbcfac-transcript-080420.pdf.

215 "Notice of Proposed Exemptive Order Granting Conditional Exemption from the Broker Registration Requirements of Section 15(a) of the Securities Exchange Act of 1934 for Certain Activities of Finders," Release No. 34-90112, *available at* https://www.sec.gov/rules/exorders/2020/34-90112.pdf.

216 "Final Rule: Accredited Investor Definition," *supra* note 14.

217 *See, e.g.*, Roundtable on Capital Formation Between the Coasts, May 6, 2019, at minutes 42-48, archived webcast *available at* https://www.sec.gov/video/webcast-archive-player.shtml?document_id=sbround050619.

218 *See, e,g.*, Virtual Small Business Forum (June 18, 2020) *available at* https://www.sec.gov/oasb/sbforum.

219 *See* "Founder Demographics & Capital Formation" section of the Report above.

220 *See* Sarah Lyons-Padilla, *et. al.*, "Race Influences Professional Investors' Financial Judgments," *Proceedings of the National Academy of Sciences of the United States of America*, (Aug. 27, 2019) *available at* https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6717274/.

221 *See* Amy Cortese, *supra* note 205.

222 *See* "Small Public Companies" section of the Report above.

223 *See e.g.*, SEC Press Release 2020-58, *SEC Adopts Amendments to Reduce Unnecessary Burdens on Smaller Issuers by More Appropriately Tailoring the Accelerated and Large Accelerated Filer Definitions* (Mar. 12, 2020) *available at* https://www.sec.gov/news/press-release/2020-58; SEC Press Release 2020-118, *SEC Adopts Amendments to Improve Financial Disclosures about Acquisitions and Dispositions of Businesses* (May 21, 2020) *available at* https://www.sec.gov/news/press-release/2020-118; SEC Press Release 2020-192, *SEC Adopts Rule Amendments to Modernize Disclosures of Business, Legal Proceedings, and Risk Factors Under Regulation S-K* (Aug. 26, 2020) *available at* https://www.sec.gov/news/press-release/2020-192; and *SEC Adopts Amendments to Modernize and Enhance Management's Discussion and Analysis and other Financial Disclosures* (Nov. 19, 2020) *available at* https://www.sec.gov/news/press-release/2020-290.

224 *See* "COVID-19 and Capital Formation – What is happening in the initial public offering (IPO) market?" section of the Report above.

225 A SPAC is a publicly traded company that raises cash for the purposes of acquiring a closely held firm and, through the deal, taking it public. *See supra* note 71.

226 *See* https://www.sec.gov/page/small-business-capital-formation-advisory-committee.

227 *See* SEC Press Release 2019-61, *SEC Announces Members of Small Business Capital Formation Advisory Committee* (Apr. 25, 2019) *available at* https://www.sec.gov/news/press-release/2019-61.

228 *See* SEC Press Release 2020-171, *SEC Announces New Small Business Capital Formation Advisory Committee Members* (Aug. 4, 2020) *available at* https://www.sec.gov/news/press-release/2020-171.

229 "Concept Release on Harmonization of Securities Offering Exemptions," *supra* note 209.

230 "Proposed Rule: Amending the "Accredited Investor" Definition," Release No. 33-10734 (Dec. 18, 2019) *available at* https://www.sec.gov/rules/proposed/2019/33-10734.pdf.

231 "Final Rule: Accredited Investor Definition," *supra* note 14.

232 "Order Designating Certain Professional Licenses as Qualifying Natural Persons for Accredited Investor Status Pursuant to Rule 501(a)(10) under the Securities Act of 1933," Release No. 33-10823 (Aug. 26, 2020) *available at* https://www.sec.gov/rules/other/2020/33-10823.pdf.

233 *See* "Final Rule: Facilitating Capital Formation and Expanding Investment Opportunities by Improving Access to Capital in Private Markets," Release Nos. 33-10884; 34-90300; IC-34082 (Nov. 2, 2020) *available at* https://www.sec.gov/rules/final/2020/33-10844.pdf.

234 *See* Jay Clayton, Chairman, SEC, Remarks at Meeting of the Small Business Capital Formation Advisory Committee (Nov. 12, 2019) *available at* https://www.sec.gov/news/public-statement/clayton-remarks-small-business-capital-formation-advisory-committee-111219.

235 *See* Dalia Blass, Director, Division of Investment Management, Speech: PLI Investment Management Institute (July 28, 2020) *available at* https://www.sec.gov/news/speech/blass-speech-pli-investment-management-institute.

236 *See* "Temporary Amendments to Regulation Crowdfunding," Release No. 33-10781 (May 4, 2020) *available at* https://www.sec.gov/rules/interim/2020/33-10781.pdf.

237 *See* "Temporary Amendments to Regulation Crowdfunding; Extension," Release No. 33-10829 (Aug. 28, 2020) *available at* https://www.sec.gov/rules/interim/2020/33-10829.pdf.

238 *See* https://www.sec.gov/info/smallbus/acsec/acsec-recommendation-051517-finders.pdf.

239 *See* https://www.sec.gov/oasb/sbforum.

240 *See* https://www.sec.gov/spotlight/sbcfac/sbcfac-learn-from-data.pdf.

241 *See* https://www.sec.gov/files/2020_Diversity_and_Inclusion_Strategic_Plan.pdf.

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