

enforceability of MDR clauses, the difficulties arising from the conflicting role of the same neutral as mediator and arbitrator, and the enforcement of the mediated settlement agreements from MDR). This book, wonderfully written, may need updates with the ratification and implementation of the Singapore Convention on Mediation in the future. Its comparison could be more precise by focusing on MDR in commercial disputes in Asia and the wider world. It is not entirely clear for readers how MDR in family and labour cases discussed in some chapters of this book is related to the global trend of increasing MDR in transnational commercial disputes.

Reviewed by Jie (Jeanne) Huang
Sydney Law School

Venture capital law in China

Venture Capital Law in China. By Lin Lin. Cambridge: Cambridge University Press, 2021. 340 pp. Hardcover \$110.50
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China is now the second largest venture capital (VC) market in the world if one uses annual VC investment as the metric. While various governments around the world have undertaken initiatives to develop a VC market, many have produced lacklustre results. China's success in developing the VC market over a relative short span of 30 years is exceptional—and indeed remarkable. All the more so because it is commonly regarded as lacking the legal infrastructure that accounts for the success of the largest VC market in the world—the US. This book by Lin Lin from the National University of Singapore fills an important gap in the current literature by explaining the development of the Chinese VC market and its unique features.

The author seeks to answer three questions: (1) how China managed to develop the world's second largest VC market within three decades; (2) lessons to be obtained from the China experience; and (3) the way forward. In researching the answers to these questions, the author conducted empirical research—both qualitative and quantitative in nature. This include 60 hand-collected investment agreements and 40 limited-partnership agreements used in the Chinese market over the period 2010–19, as well as extensive interviews with 100 key market participants, ranging from lawyers, venture capitalist, PE managers, founders of start-ups and large technology/e-commerce companies, to individual and institutional investors. This is supplemented by relevant judgments on issues relating to disputes arising from VC investments, and data available from leading law firms and service providers in China and the US—an enormous and impressive endeavour by any measure.

The development of any VC market must address what Gilson terms the simultaneity problem—that is, confluence in the availability of investment capital, sophisticated financial intermediaries, and entrepreneurs. The main body of the book examines three areas that address how the simultaneity problem is addressed in the Chinese context: Venture Capital Fundraising (Chapter 2), Venture Capital Investing (Chapter 3), and Venture Capital Exits (Chapter 4). China does not aspire to be a free-market economy in the fashion of capitalist economies like the US, the UK, and Australia. Its model of “socialist market economy” unabashedly embraces state-owned enterprises and the strong hand of the state in

guiding economic development. Insofar as the VC contracting model is underpinned by braiding two sets of contracts—that between the investor and the venture capitalist, and that between the venture capitalist and the portfolio company—they will be set in a context with very different operating premises from those obtained in the US. More materially, the regulatory constraints evolve over time. The author does a sterling job of documenting how the regulatory framework has changed over the last 30 years (e.g. Table 1.1 on pp. 29–34 and Table 2.6 on pp. 95–8), and usefully explains to the reader the significance of some of these key developments. The high degree of regulation over mergers and acquisitions both at the national level and at the provincial or local level explain why the exit through a trade sale is not a preferred mechanism compared to the initial public offering (IPO). The evolution of the IPO regulation documented in Chapter 4—through the “Quota Management” system, the “IPO Number Management” system, the “Channel” system, and the more market-driven registration measures that have been progressively taking effect since 2016—demonstrate the careful management of fundraising through the capital market that in no small measure determined the attractiveness of VC investment in China (see Section 4.2.5).

In the Chinese context, the presumption of contractual freedom operates in a much more constrained manner; one implication is that the validity of key contractual clauses in VC agreements that one takes for granted in the US context cannot be presumed in China. Readers will find in Chapter 3 a useful discussion of whether Chinese law recognizes the validity of clauses relating to liquidation preferences, priority in dividends, the preemptive right to participate pro rata in future rounds, the right of first refusal, tag-along rights and drag-along rights, and veto rights. Readers will also learn why the Valuation Adjustment Mechanism (VAM) is an important aspect of contractual design in the Chinese VC market (pp. 177–207) and how it addresses the restrictions against the use of convertible preferred stock under the PRC Company Law. This innovation represents an adaptive mechanism that protects the interests of the investor in a portfolio company. Also, it signals the creativity of the transaction engineers in incorporating incentives to performance—though they are not without their problems, as the author argues in her methodical and systematic criticism of the mechanism (pp. 197–207). Some regulatory constraints cannot be overcome. The disallowance of dual-class shares (DCS) in PRC company law means that entrepreneurs who seek to maintain control after listing without holding a proportionate number of shares will have to seek overseas listing in overseas venues that allow such structures. In this regard, the NYSE listing of Alibaba is a missed opportunity for the Chinese capital market. The author argues forcefully for the allowance of DCS, although those who are concerned with the private benefits of control attendant to DCS will probably require more assurance to balance the benefits of DCS against the potential risks for the investors.

The author is to be congratulated for adding to the literature a scholarly book that provides a nuanced, detailed, and sensitive understanding of how the VC market developed in China. At the same time, she does not shy away from offering critiquing overly burdensome regulations and offering suggestions on how the system can do better in fostering an even more vibrant VC market. Some of the strategies employed in China may be unique and not readily transplantable. From a comparative-law perspective, the account offered in this book contains lessons on how similar outcomes can be obtained even if the tools and institutions may be different. This book will be of interest to a wide audience. Whether one is interested in VC, political economy, or law and finance generally, one will learn much from this well-written book.

Alexander LOKE
City University of Hong Kong, School of Law