101 Pitch & Deal Structure

Building a Pitch

At Accelerator Programs

You help build the components of your pitch throughout the program so that you are prepared to talk to investors about your company when you fundraise.

Here is a hint—your pitch changes based on the audience you are talking to. Customers expect more jargon and deeper industry knowledge. Investors will want more basic language and a clear understanding of how fast you are growing, how you make money, and how big the market is.

The most time is spent helping you on your investor pitch. You should iterate your customer pitch based on the feedback you get interacting with them regularly.

Two Sentence Description

Introduction

Your "Two Sentence Description" is a short description of what your company does, as you would explain it to an investor. You'll use your two sentence description throughout your program to introduce your company to other founders in the cohort, and as practice for fundraising. You'll iterate on it with your mentors until it's perfect. Hopefully you will continue to use it or a version of it for years to come, to explain your company to investors and likely to the press and other general audiences.

Here's a good mental model for what we are looking for in a two sentence description. Imagine you were at a cocktail party, and an

investor came up to you and said, "Hi xxx, what does your company do?". The two sentence description is what you would answer back.

Examples

Two sentence descriptions come in a number of different formats.

Format 1: Sentence one, what we do. Sentence two, example.

Example: Airbnb is a marketplace where you can book a home or apartment when travelling for work or vacation. When you visit New York City with your family, instead of staying in a cramped and expensive hotel room, you can stay in a comfortable 3 bedroom apartment at the same price.

Format 2: Sentence one, the problem we solve. Sentence two, how we solve it.

Example: Stripe makes it easy for developers to accept payments on their websites or mobile apps. We do this by providing a simple and well documented payments API that any developer can instantly start using straight from our website.

Please note that many companies screw up format 2 by talking about the general problem in the industry rather than the specific problem they solve. One hint you are doing this is if you aren't starting your 2 sentence description with the name of the company.

Here are some other examples:

Chatpay: We allow anyone to create an online coaching business through WhatsApp or Telegram groups. For example a fitness coach can charge their audience to join an exclusive WhatsApp group where they will run an entire weight loss fitness program.

Afriex: Afriex makes it easy for immigrants to send money home. We use stable coins to offer the fastest and cheapest remittance service to over 30 countries.

Drip: Drip is the only piece of software a restaurant needs to run their business. We offer employee scheduling, mobile ordering, and more to the 100,000 counter service restaurants in the US.

Supabase: Supabase is the open source Firebase alternative. We offer the features of Firebase with superior performance and no lock-in.

VenoStent: There are over 5 million dialysis and bypass surgeries per year, but half of them fail. VenoStent saves lives with a wrap that goes around blood vessels during surgery so they don't fail.

Known Medicine: Known Medicine helps clinicians pick the best cancer treatment for patients. We do this by breaking down a patient's tumor into many micro-tumors and treating each with different drugs to see which it responds best to.

Common Mistakes

Here are the most common mistakes that founders make with their two sentence descriptions.

Using a Customer Pitch Instead of an Investor Pitch

Startups have to describe their businesses to both investors and customers. A common mistake founders make is to believe they can use same pitch for customers and investors. For most startups, investors will not be the user and won't really understand the user. Therefore, most companies will need two completely different pitches: one for customers and one for investors.

At a very basic level, that means that you likely don't want to use the word "you" in your two sentence description (the Airbnb example below is an exception to this rule, and it works because Airbnb is a consumer product where actually investors would be likely users). But deeper than that, the investor pitch often can't assume that the investor is familiar with the problem you are solving and it can't use any terms that your customers understand but a general audience won't.

Making Them Too Long

The next most common mistake founders make with short descriptions is trying to give too much information. As the founder, you know all this cool stuff your company does, and it feels like the objective of the exercise is to pack as much of it as possible into the two sentences.

It doesn't work that way. The point of a two sentence description is not to sell investors that your company is a great company they should invest in. That's impossible to do in two sentences. The point is to clearly explain what you do, so they can start asking questions about it. It is in the discussion that follows that you have an opportunity to convince them that you have a great company they should invest in.

Here's another counter-intuitive property of two sentence descriptions. Many good two sentence descriptions will only describe 50% of what you do. This typically drives founders crazy because they see the 50% that is missing and it feels like they are selling their company short by not including it. But in practice, by trying to include everything you do, your description becomes so vague that people don't understand any of it. If an investor truly understands 50% of what you do, that is actually a great start. You can let them learn about the other 50% over time.

Trying to Make Your Company Sound Impressive

Founders often worry that a simple description of their company doesn't sound "impressive enough" to investors. In an effort to make it sound more impressive, they insert buzzwords like "AI", or business jargon like "enterprise platform". This is not recommended; it doesn't impress quality investors and indeed will turn many off. The best two sentence descriptions use informal, simple language. Your two sentence description should be the way you would describe your company to a new friend or acquaintance in a casual conversation.

Properties of Good and Bad Two Sentence Descriptions

One of the qualities of good 2 sentence descriptions is that they create pictures in the listeners head. In the Airbnb example you can imagine visiting New York City, you can imagine a crappy hotel room, and you can imagine a great apartment. In the Stripe example you can

imagine going to a website, getting access to an API, and reading well prepared API docs.

Bad 2 sentence descriptions use jargon instead of creating pictures. For example, does any picture come to your mind with this pitch:

"We are a peer to peer sharing economy marketplace for homes. We connect homeowners with people who need short term stays."

This 2 sentence description is so vague it will leave little impression in my mind and will be easily forgotten.

Good two sentence descriptions are easily remembered and repeated back, even hours or days after first hearing them. A good two sentence description creates a clear mental picture in the listener's mind, so they are able to ask a good follow up question, which becomes the seed of productive conversation.

A great test you can do with your two sentence description is to give it to a random founder in the cohort and then ask, "ok, what do we do?" They should be able to quickly and easily explain back to you what your company does in their own words.

Making the Investor Your Customer

A common failure mode during the program is to change the problem you are solving, the customer you are targeting, or your KPI because you think it will make your company more attractive to investors on your major deadline. We can think of this as making the investor your customer because most businesses should be doing everything within reason to make themselves look more attractive to customers.

This typically happens towards the middle of the program and is something you should try to avoid. For example, if you set an aggressive deadline goal and by mid-program you don't think you'll hit it, that doesn't mean you won't be able to raise on your deadline. As a result, you shouldn't necessarily change everything about your company in order to try to hit that goal. Instead, talk to your

mentors and ask them if they think you are still moving in the right direction. Also talk to them about revising your deadline goal.

Another place where this happens is with companies who are pivoting. Often times they choose to pivot not to a problem they have experience with but to a set of problems that are popular with VCs (at the time of writing this article, AI would be a prime example).

Both of these moves above essentially put the investor before the customer in your company. It makes the investor the primary person you are trying to serve. Unfortunately, this is not the path to building a successful startup.

Vertebrae (The Core of Your Pitch)

Your Vertebrae are the 3-5 points that you most want investors to remember about your company.

Great vertebrae tell a compelling and memorable story about your company that communicates what you do and why investors should be afraid not to fund you.

They usually answer the following questions:

- What are you building and for whom?
- Why hasn't this been done before?
- Why is it hard to do what you are doing?
- Why is this an opportunity not to be missed?

How to Build Your Vertebrae

There isn't a formula for writing vertebrae—they are compelling and memorable because they are unique to your company.

You'll build your vertebrae together with your mentor during fundraising preparation. To prepare, make sure to fill out your custom fundraising plan document before this meeting.

How You'll Use Your Vertebrae

You'll use your vertebrae in many places:

- They'll form the outline of your fundraising deck and major pitch event presentation
- When you're having a freeform conversation about your company with an investor, these are the key talking points that you'll want to make sure you cover in every conversation
- You'll take your vertebrae and turn them into an "intro blurb", which is a paragraph or so of text. When you're asking for an intro to an investor, they'll look at your intro blurb and decide whether or not to take a meeting, so it's important that it's good
- When investors show interest in you at your major pitch event or online, you'll respond to them with an email, and a key component of that email will be your vertebrae

Examples

Here are the vertebrae that the Posthog founders used in their pitch. They wound up using a different strategy later on, but these were the points they used to raise their seed round.

Posthog is open source product analytics. We're like Mixpanel or Amplitude, but open source. We help people understand who is using their product, and how.

Our first idea turned out to be crappy, so we pivoted and threw an MVP onto Hacker News. The result? The all-time most upvoted B2B software launch on HN. After just 2 weeks we have 400 deployments, 1,500 GitHub stars, and an active community of contributors. We're growing by ~20 deployments a day.

We believe product analytics should be targeted at developers. Going after developers by being open source means we get in earlier at zero cost and with zero info-sec process. Being on premise means we can scale to data-sensitive enterprises in a way no one else can.

James was a VP Sales and has sold $5M ARR deals before, so we can do enterprise sales. Tim was the fastest developer out of 50 at the company we spent four years together at before.

We can displace the entire product analytics, event tracking and—longer term—data warehouse markets. In the long run, there are 8-10 times as many developers as product people in the world. We can bring data driven decision making to every company in the world.

Here's another example for Airbnb:

Airbnb is a marketplace where you can book a home or apartment when traveling for work or vacation. When you visit New York City with your family, instead of staying in a cramped and expensive hotel room, you can stay in a comfortable 3 bedroom apartment at the same price.

Brian and Joe met at RISD where they graduated with degrees in fine arts. Nate, who was Joe's roommate after college, made over $1m after starting a software consulting company in high school, and then graduated from Harvard with a degree in Computer Science.

When using an early version of our product to attend SXSW we realized the most painful part of staying in an Airbnb is paying the host. By accepting payment in our site, and holding in escrow until after the trip is completed, the number of nights booked increased significantly.

We launched 3 months ago, we already have $15,000 of monthly revenue, and we're growing 50% every month.

In the United States business and vacation travelers spend over 1 billion nights in a hotel every year. On average we make $20 per night booked on our Airbnb, which represents a $20B market opportunity in the US alone.

Think of Good Examples

One way you can really make a pitch come to life is with real-world examples and anecdotes. Oftentimes these examples go hand in hand with your vertebrae and help the investor better understand the point you are trying to make. The best examples paint a picture in people's minds. They come from your specific experience or the specific experience of a customer. The worst examples are overly broad, have too much jargon, or take too long to explain.

Here are some examples the Airbnb founders could have used when talking to investors:

What you do: Airbnb is a marketplace where you can book a home or apartment when traveling for work or vacation. When you visit New York City with your family, instead of staying in a cramped and expensive hotel room, you can stay in a comfortable 3 bedroom apartment at the same price.

Example: Last week, a Dad and his son flew in from Seattle to watch a Warriors game in person. They used Airbnb to rent an apartment in a building right next to the Chase Center. For 50% cheaper than staying in a hotel, they were able to walk across the street to see the game and their host even gave them a tour of the neighborhood afterwards.

Traction: We launched 3 months ago, we already have $15,000 of monthly revenue, and we're growing 50% every month.

Example: One of our customers has been renting out his 3 bedroom apartment in downtown New York for 10 years in order to make extra income when he is traveling for work. When we spoke to him in person he immediately signed up and moved his next 6 months of bookings onto our platform—that single apartment can make Airbnb over $5000 of revenue a year.

Unique insight: When using an early version of our product to attend SXSW we realized the most painful part of staying in an Airbnb is paying the host. By accepting payment on our site, and holding in escrow until after the trip is completed, the number of nights booked increased significantly.

Example: The first time I used Airbnb we didn't have the payment feature built and I had to pay the host in cash. I was staying with a very nice family, students at the University of Texas Austin, who cooked me dinner and even left a mint on my airbed pillow. I felt like a complete idiot when they asked for payment and I forgot to get cash from the ATM. I realized right then that Airbnb should support payments on our site.

Fundraising Materials

This section has advice on building a fundraising deck and data room.

Fundraising Deck

Introduction

The best investor pitches don't feel like a pitch at all – they're more like an engaging, back-and-forth conversation. You drive the conversation, steering it to the points you want to hit on, and focus on telling the story you want to tell. That's why it can be helpful to create a deck to help keep the conversation on track, make sure you hit on all the key points, show important visuals, and share with the investor afterwards.

Building Your Deck

Your fundraising deck is a visual backdrop for your fundraising vertebrae. Your slides should reflect the key vertebrae points in order and contain just enough detail to reinforce each point without distracting your audience. Remember: their focus should be on you, not your slides.

Here are the steps to build your fundraising deck:

1. Meet with your mentors to figure out your 4-6 vertebrae points in fundraising preparation.
2. Using your Fundraising Deck Template, add one slide for each vertebrae point, in order.
3. Each slide should contain only one point or insight. If a slide has more than one, split it up.
4. Move anything not directly covered in your vertebrae points to an appendix. This is a great place to put additional numbers and details you think investors may ask about.
5. Delete the presenter notes before sharing with investors :)

The Fundraising Deck Template

To make this easier, a set of fundraising deck slide templates exists that you can use as a starting point for your own seed deck. It contains more than 50 simple, compelling slide templates that you can customize with your own content to make sure your pitch tells a clear story.

There are 12 different sections of templates included, each with multiple variations, that map to the most common points you'll need to communicate to investors. Your deck should likely be between 6-8 slides, but you should not include a slide from every single section in your deck – instead, you'll want to focus on driving home just the 4-6 vertebrae points from your fundraising preparation. These should be the most compelling points about your company, and trying to add other slides or information to your deck will just add noise and make your pitch less effective.

The Most Commonly Used Slides Include:

Title: An intro slide containing the name of your company, your logo (if you have one), and a short version of your 1-liner.

Traction: Show the most compelling evidence of progress for your startup. If you have compelling progress or traction, this slide should probably be the first slide in your deck, right after your title slide. If your main KPI is revenue, this should be a graph of revenue growth. If your main KPI is active users, this should be a graph of user growth. If your main KPI is LOIs or PoCs, this should be

total value + logos, and if you're working towards milestones on a longer time horizon (bio, hardtech, etc), this should be a timeline of your milestones achieved + future roadmap.

Team: Show why you're the best team in the world to build your business. If you are experts in the space, have relevant education or work experience, or have impressive accomplishments, this slide should be near the front of your deck.

Insight: Show a non-obvious or counter-intuitive insight that you have about your business or market, that will surprise investors or teach them something new. This helps explain why your startup hasn't been done before, and also reveals how well you understand your market.

Market + Business Model: Show a bottom-up calculation of the size of your market, along with the assumptions you're making. This also has the added benefit of explaining your business model and how you make money to investors.

Milestones + Use of Funds: Communicate the milestones you plan to hit with the money you're raising. Investors will want to see that your target milestones map to milestones you'll need to hit to raise your Series A, so make sure those line up.

Other Helpful, But Less Commonly Used Slides Include:

Problem: Show investors why the problem you're tackling is so painful or important to your users. Most investors will not be experts in your space, so it's helpful to give them context on what the problem is, who has it, and why it's valuable for you to solve it.

Solution: Explain how you are solving the problem your users have. This slide usually follows immediately after a Problem slide.

Why Now?: Explain what's changed in the world recently that makes building this company possible, when it wasn't possible a few years ago. This could be due to new regulations, new technology, new customer behavior, or new platform adoption.

Vision: Paint a compelling vision of the future that will exist if your company works.

Competition: Contrast your company with other competitors or substitutes for your product, to explain how you're differentiated from existing players. Your differentiation could be through product features, the specific customers you're targeting, or some other dimension that is important to your users.

Wrap Up: Include a wrap up or summary slide to thank the investor for their time, reiterate key points, include your contact info, and set next steps.

Sales Process and Sales Economics: If you are a B2B company and have significant revenue, you may want a slide about your sales process and sales metrics like average deal size, etc.

Customers: (for B2B companies) A slide showing logos of your customers and perhaps some info about them. Good if you have recognizable customers.

Customer Case Study: (for B2B companies) A slide walking through one successful B2B customer and the impact they got from using your product. Useful if you have a really successful customer where you've had a meaningful impact on their business.

Engagement and Retention: Stats about your retention and user engagement (how much users use the product). Particularly for consumer companies, sometimes placed in an appendix.

Unit Economics: Relevant for companies that have high COGS—like labor marketplaces, hardware companies, some fintech companies.

Quick Tips for an Effective Deck

Using these templates as a starting point should get you most of the way there, but here are some quick tips to avoid common fundraising deck mistakes that founders often make:

If investors don't understand, they'll never invest. Remember, they invest in people and ideas, not slides. So optimize for clarity of your ideas, not fancy slides.

Effective slides are simple and obvious. Less is more, and too much info on each slide makes it hard to understand or remember anything at all.

Focus on 1 idea per slide. If you're trying to make multiple points in a single slide, split it into multiple slides.

Keep it to 6-8 slides total. Make sure you nail your 4-6 vertebrae points, and anything else should be cut or moved to an appendix.

Lead with your most compelling slides. If you have lots of traction, start with that. If you're an objectively impressive team, lead with that.

State the conclusion in the headline of each slide, and use the body as supporting evidence. Replace boring slide headlines like "Problem" and "Traction" with strong takeaways like "Starting a subscription publication is hard" and "$2.8M ARR growing 24% w/w".

Go through your deck and only read the headlines—does it tell a compelling story? Think of your deck not as a series of individual points you want to make, but instead as a story you want to tell. If an investor only read the headlines on your slides, would they understand your business and be excited to invest?

Show, don't tell. Rather than saying "we're the best product in the market", which anyone could say, use facts like "we have a 90% win rate vs our competitors" to lead investors to their own conclusion that "wow, they're the best product in the market."

Label your graphs. Unlabeled graphs are confusing and misleading. You should label your axes and make it clear what units ($, etc) you're graphing.

Only include real traction. Unless you have nothing else, don't talk about your pipeline, "active conversations", or unbooked revenue – it often makes you look like you're grasping at straws to show traction.

Use consistent formatting. Keep your fonts, sizes, colors and layouts consistent so that investors don't need to reorient themselves on each slide.

Every slide and word should count. If it doesn't make an investor more likely to want to invest, get rid of it. If you feel an urge to add slides to your deck after your mentor signs off on your deck or after you start pitch meetings (perhaps because you feel like it will help answer questions investors have), it is highly encouraged to put those slides in the appendix and not the main section. Otherwise, your presentation may come off as too long / boring / detailed.

Have an appendix. An appendix is a set of slides you have at the end of your deck that you don't normally present, but can pull up if an investor asks a relevant question. Having slides prepared for common questions will help you give stronger answers to them.

You can also check out some past fundraising deck examples for inspiration, though keep in mind many of them could be improved with the tips above, so you likely shouldn't copy them directly.

Quick Tips for an Ineffective Deck (Common Mistakes)

Here are some common fundraising deck mistakes. Doing these things will almost always make your pitch worse.

Don't use your vertebrae. Your vertebrae are designed to bring investors through a simple, compelling narrative so that you can have a good conversation. Dropping vertebrae points, presenting them out of order, or adding more content will almost always detract from that goal.

Use tons of words. If your slide has more than a handful of words on it, your audience will ignore you and get bored reading the slide instead.

Use a "professional" template or hire a slide designer. High-production-value slides don't make good pitches better, but they do make bad pitches worse because they signal that you are focused on the wrong things. What's important is the storytelling, the content, and how it's being communicated. What matters the least is the design and the colors you are using.

Use complex diagrams and screenshots. There's almost always a better way to make the point you're trying to make with simpler visuals or words alone.

Be vague. Specific statements are more credible and more interesting. For example:

Boring: "We're raising $1M to hire three engineers"

Interesting: "We're raising $1M so that we can launch on Android and reach $100k in MRR."

Boring: "I was a software engineer at Youtube"

Interesting: "I was a software engineer on the ranking team at Youtube, where I built a ranking system that handles XX billion requests per day and doubled video viewing time on the site."

Boring: "Our product helps salespeople spend less time writing notes in their CRM"

Interesting: "Jane, one of our users, is a mid-market sales rep at _____. She talks to ten to fifteen leads every day. In the past, she would spend 10 minutes writing notes in salesforce after each customer call, which added up to two hours of lost productivity every day. Our product summarizes her calls and automatically adds notes to Salesforce so that she can focus on making more calls."

Data Rooms and Additional Documents to Prepare for Seed Fundraising

What is a Data Room?

A "data room" is just a fancy term for a collection of documents that you can easily share with investors. Data Rooms are a commonly used tool in later stage funding rounds (Series A+) because they cut down on the back-and-forth of investors asking for materials and companies supplying them.

What Tool Would I Use to Make a Data Room?

A data room, especially at the seed / Series A stage, is typically just a Google Drive or Dropbox folder. To keep track of what you sent to whom, you can simply create a different folder for each investor.

Docsend also has a data room product some companies use. There are many enterprise-class data room products, but those are overkill for this purpose.

Should I Make a Data Room?

Most companies do not need a data room for seed stage fundraising. This would be overkill for your typical early stage software company. There are a couple of cases where it could make sense:

You're a hard-tech/biotech/life science company You have a lot of traction and are planning to raise a large round from large investors

If you're not sure if it makes sense to prepare a data room, it's best to just not bother with doing so upfront.

If an investor asks you for one, it's perfectly fine to ask them for what documents they are asking for specifically. They'll then either suggest a few documents, which you can send through email, or they'll send you an extensive list that mostly applies to later stage companies. Look through the list and send them what you find relevant for your stage of the conversation.

If you find that investors are requesting a lot of the same documents, you can make a data room then and use the requests you've gotten to inform what you put in it.

What Should Go in My Data Room?

Here is a list of materials to consider putting in a data room—only some of these will be relevant for any particular company.

Business Materials

- If you have major enterprise deals (contracts, pilots, LOIs, partnerships), the signed documents of those deals
- Historical financial statements (typically monthly showing a breakdown of revenue and costs)
- Financial projections (typically a model in Excel or Google spreadsheets)
- More detailed metrics than are in your main investor deck: such as unit economic breakdowns, retention and engagement data, sales pipelines, CAC/LTV analysis, customer acquisition source breakdowns. These can also go in an Appendix section on your investor deck.

Legal Materials (It's Often Best to Wait Until Someone Asks for This Information)

- Certificate of incorporation and bylaws
- Your cap table (breakdown of the equity ownership in your company including SAFE holders / investors)
- Employee agreements
- Copies of signed SAFEs and any other investment documents
- If you have a considerable number of employees, an org chart

There is a longer list of these in the Series A handbook but it's overkill to prepare pre-emptively for seed fundraising.

Materials for Hard-Tech / Biotech / Life Sciences Companies

Each of the following headers can be used as folder titles, and then the subjects listed below each header are documents that you can provide. Please note, you often don't want to give them everything upfront, so ask if you're unsure if a certain piece of information is relevant to your stage of conversation.

Intellectual Property

- All published patents
- A document that lists provisional patents that are currently pending, and, if needed, what core features of your product they cover

Clinical and Experimental Data

- Reports from completed clinical trials
- Protocols of ongoing trials
- A document that summarizes all of your trials to date in one place
- A document that summarizes your upcoming clinical trial strategy
- Detailed experimental data (if you have it)

Regulatory Information

- Any regulatory approvals that you have received so far
- Any regulatory plans that you have gotten from outside consultants

Product/Technology/Science Information

- An FAQ addressing common questions investors have about your technology
- A document explaining in more detail how your technology works that's written to be easy for investors to understand (careful about writing anything down not already covered in patents)
- Publications (both by you and potentially relevant ones by others. It's often helpful to have another document that summarizes/categorizes the most relevant papers)

Other

- A detailed budget showing the costs to get to your next milestones (Operating/hiring plan)

Fundraising Legal Advice

SAFE Quickstart Guide

It is recommended to use standard legal tools to send safes. You can also use the downloadable templates on standard legal resources websites.

An in-depth SAFE User Guide is available. This documentation gives you some background on the basics.

Sometimes investors give companies term sheets for a SAFE. Proceed with caution. The SAFE was drafted to be simple enough to render term sheets unnecessary. Confirm whether the term sheet contains any common investing rights or red flags.

Sometimes investors ask for side letters. Proceed with caution. Confirm whether the side letter contains any common investing rights or red flags.

Some investors ask for customizations to the SAFE. You can tell if an investor has modified the standard SAFE if they have modified or deleted this sentence from the second paragraph:

"This SAFE is one of the forms available at [standard location] and the Company and the Investor agree that neither one has modified the form, except to fill in blanks and bracketed terms"

Further Reading

For more important information on SAFEs and fundraising check out these sub-articles:

- Using Standard Legal Tools (Important)
- Red Flags to Watch for with SAFEs (Important)
- SAFE FAQs for U.S. Companies and SAFE FAQs for Companies Formed in the Caymans, Canada or Singapore (Important)
- Common Investing Terms and Rights (Important)
- SAFE Conversions (Important)
- SAFEs v. Priced Rounds
- Taking Crypto as Payment
- Investor Diligence
- Investor Pro Rata Rights
- What to do if you get a term sheet
- Roll Up Vehicles (RUVs)

Priced Rounds

If you are raising a priced round, remember that there are processes for getting sign-off on your financing documents from relevant parties. The key is to notify relevant parties as soon as you have a term sheet in hand.

Using Standard Legal Tools

The vast majority of you will raise money using the standard SAFE and the easiest way to send a SAFE to an investor for signature is with standard legal document platforms. These platforms have templatized safes as well as the standard form of pro rata side letter for US, Singapore, Canada and Cayman companies. For Singapore, Canada and Caymans companies, some platforms support only Valuation Cap safes and do not support any Discount or MFN safes.

After you receive your accelerator program's investment, you will automatically be given access to standard SAFE templates appropriate for your jurisdiction. You won't have access to the free templates before you receive the investment. If (after you have received the investment) you still have trouble accessing the SAFE templates, please reach out to support for the platform you're using. And if for some reason you need access to the SAFE templates before the investment is completed, reach out to your legal point of contact.

It is strongly advised that you send yourself a test SAFE so you know exactly what information you'll need from an investor before sending them one. Remember if you are sending SAFEs from a standard legal platform you are using the standard form document and don't need your lawyers to review every SAFE you send; however, if you are a US company you may want to loop them in to assist with any securities filings.

Be sure to obtain board approval for the issuance of SAFEs prior to issuing any SAFEs to investors. Further instructions can be found in standard legal documents. Board approval templates are available for US companies (only one board approval needs to be signed for each SAFE round). For Canada, Cayman and Singapore companies, it is recommended

to work with your lawyer or company secretary to draft the required resolutions.

Situations where standard platforms don't work: If the investor has two signatories that must both sign the SAFE (this is sometimes the case for angels investing via trust), you will need to sign the SAFE off of the platform. You can download the correct form of SAFE from standard legal resources, and then sign using DocuSign/Dropbox Sign/etc. Be sure to Ctrl+F for all bracketed information and fill in the details carefully.

Red Flags in SAFE Side Letters, SAFEs and SAFE Term Sheets

This section describes potential red flags to watch out for when fundraising using SAFEs. There are three scenarios where you may unwittingly give an investor potentially problematic rights if you're not paying attention:

1. The investor sends a side letter with the SAFE. Side letters are common and many are fine, but some are not. This section will help you understand whether the terms they ask for are potentially problematic.
2. The SAFE was modified from the standard form
3. The investor sends you a term sheet for a SAFE instead of going directly to the step of signing the SAFE itself

Reminder: This section can't tell you if you should accept non-standard or potentially problematic terms because every company is different. The terms that one company accepts may be unacceptable to another company because of their relative negotiating power. Don't allow investors to put you in a box and force you to accept unreasonable terms that another company accepted—you're not that company, and you don't know the circumstances that led to the agreed-upon terms. You should put strong weight on how an investor behaves in a negotiation—their true colors will only become more apparent if the company goes through a rough patch.

Also, a lot of these terms are quite technical. You should always feel free to reach out to your mentors or legal resources for guidance.

The Investor Sends a Side Letter With the SAFE

Side letters are very common, but they come in many different flavors. While most side letters just ask for things like information rights or pro rata rights, occasionally they have stranger terms. This section provides a summary of common investing terms and rights, which will be helpful to use as a resource when you read through investor side letters.

Acceptable Side Letters:

If the side letter is a Management Rights Letter (MRL) that follows standard form, there's nothing to worry about.

If the side letter is the standard pro rata side letter and you have agreed to grant the investor pro rata rights (after reviewing the detailed guidance on the section describing pro rata rights), there's nothing to worry about.

Red Flags to Review With Your Lawyer:

MFNs (Most Favored Nation) Clauses: Broadly, MFN clauses say that if you offer better terms to a later investor, you have to give the current investor those same terms. MFN clauses make sense in certain circumstances—for example, you may want to issue an uncapped SAFE with an MFN to early investors so you can punt on determining a cap, or you may issue a capped SAFE with an MFN to an early investor to protect them in case you lower the cap for later investors.

If you agree to give an investor an MFN, you should review the MFN language very carefully. While the MFN language in the standard MFN SAFE provides that investors only have one chance to amend and restate their SAFEs to be identical to the SAFE you issue to a later investor, some investors draft MFN language so that they can cherry pick the most preferential terms that you give to later investors, in the SAFE or related side letters.

The latter formulation is problematic because it means that if: (a) at Time 0 you issue Investor A a SAFE with a $5M cap, an MFN and no other rights, (b) at Time 1 you issue Investor B a SAFE with a $20M cap and pro rata rights, and (c) at Time 2 you issue Investor C a SAFE with a $25M cap and "major investor rights", then you would have to give Investor A pro rata rights and major investor rights even though they got an overall better deal in the company than Investor B or Investor C.

Non-Standard Pro Rata Rights: Some investors may insist on having their own side letters for pro rata rights. If you can convince them to use the standard form, that's better. For some of the larger VCs, it may be a requirement and if they're making a large seed investment ($500K+), it may be fair to let them have their own pro rata terms so long as it only entitles them to subscribe for their actual ownership percentage and not more (i.e. not a super pro rata right). But make sure you understand how the pro rata is being calculated.

Board Observer (or Director) Seats: As described in the detailed guidance, it's very uncommon to grant observer seats in a SAFE financing, and even more uncommon with respect to director seats.

Major Investor Rights: As described in the detailed guidance, these should only be granted sparingly and with caution.

Information Rights: These come in a lot of flavors, be sure to understand what you are agreeing to provide. If it's a small check, consider whether you're already preparing these materials or whether you have to prepare them specifically for this investor. Do not agree to provide audited financials (unless you happen to be creating audited financials already). Any information rights should be covered by a confidentiality provision in favor of the company.

The SAFE Was Modified From the Standard Form

If the SAFE was modified, you should have your lawyer review the changes or reach out to legal resources to make sure you understand what the changes mean.

Below are a few examples of changes that are considered problematic:

The Series A option pool increase was re-inserted into the SAFE conversion calculation. The way to spot this is if the investors are asking for a change to the definition of "Company Capitalization" in the SAFE. If you aren't sure, just ask legal resources. Re-inserting the Series A option pool increase takes away your ability to understand SAFE dilution since the pool won't be known until the Series A that happens years later. It also conflicts with the SAFEs being a standalone round, because including that pool increase means you alone are taking the dilution from the hiring you do with this fundraise and the Series A.

Requiring a minimum amount of new money in the priced round in order to convert the SAFEs. For example, the investor's doc says you need to raise $4M in a subsequent round. So if you decide to raise a little more money 12-18 months after your major event, you can only do it on SAFEs and the dilution will continue to run against only the founders. You won't have the option to do a small priced round in order to convert the SAFEs and have everyone share in the dilution. Standard forms leave out a minimum fundraise amount in order to give founders this flexibility if they need it. If investors insist on a minimum, try to get it as low as possible ($500K-$1M).

Adding an optional or automatic conversion of the SAFE into common stock or preferred stock if the SAFE doesn't convert within [x] months (aka a "Maturity Date"). Occasionally an investor will ask for this, and you should push back. Conversion into common stock would inflate the fair market value (and 409A valuation) of the common stock and make the equity issued to your employees more expensive. Conversion into preferred stock could force you to do a priced equity round at a time that isn't good for the company—it's also very expensive and complicated to document, and will be a huge administrative burden and expense for the company in the absence of a round bringing in new money. There is also the question of what terms the preferred stock would be entitled to without a lead to negotiate the terms—this often ends up in a protracted and unpleasant negotiation unless the terms are negotiated upfront (which again makes negotiation of the SAFE itself more difficult).

The Investor Sends You a Term Sheet for a SAFE Instead of Going Directly to Signing the SAFE Itself

The fact that the investor is asking for a term sheet is itself a warning sign that they may be asking for problematic rights. Get your lawyers involved in reviewing the term sheet, or reach out to legal resources.

Below are a few examples of provisions found in term sheets that are considered problematic:

The term sheet limits the size of your SAFE round to a fixed number. For example, they'll invest $1M at a $10M postmoney SAFE valuation, but you're only allowed to raise $3M maximum. The response here is that the investor shouldn't care how much you raise, because their ownership is fixed by the post-money construct. In the example above, the investor gets 10% whether you raise $3M or $4M, so they should leave the round size up to you.

Requiring a minimum amount of new money in the priced round in order to convert the SAFEs. See the description above.

Exclusivity / No Shop: This will appear if they give you a term sheet and it says that after you sign the term sheet (but before the SAFE is even signed), you cannot talk to other investors about raising more money on different terms. The SAFE was designed so that you and investors could close the investment in a day, so exclusivity shouldn't matter to the investor so long as you agree on SAFE terms and they sign quickly. They'll get their investment closed. It also inhibits your ability to negotiate if they send you a SAFE with modifications you don't like, after you've signed the term sheet.

Founder vesting remains subject to review. This can appear in a term sheet and it means that they want to check to make sure you have sufficient vesting remaining. The easy way to counter this is to just email them your vesting terms and ask them to confirm they won't ask for changes before you sign anything.

Requiring you to allocate a specific amount to the option pool now. For example, they might say that you need to have a 10% employee pool

as part of the SAFE fundraise. If this appears, talk to your mentors or legal resources. Usually this request is reasonable so long as the pool % is not too high; whether it's too high depends on your own hiring needs and how much interest you have from other investors.

Vague references to side letters. If you get a term sheet for a SAFE and there's a reference to a side letter, ask to see the side letter first before agreeing to it.

SAFE FAQs for U.S. Companies

Important Note: All of the answers below are tailored for companies that have formed a U.S. (Delaware) parent company. If your company is formed in the Caymans, Singapore, or Canada, you should seek the advice of lawyers in your jurisdiction.

ISSUING SAFEs

User Note Regarding Standard Legal Platforms

Standard legal platforms are the best way to send SAFEs to investors. You will automatically receive access to SAFE products once your accelerator program completes its funding of your company. If you have questions related to the use of the platform (billing, error messages, etc.), reach out to the platform's support. More tips on using the platform can be found in the section on using standard legal tools.

1. How Do I Get Access to SAFEs? Can I Issue SAFEs to Other Investors Before Getting My Accelerator Program's Investment?

If you are a U.S. company, you will automatically be granted access to SAFE templates after your program has completed its investment.

If you were initially set up as a Delaware C-corporation, and you are not converting or flipping another entity into a Delaware C-corporation, you may issue SAFEs to other investors after the program starts but before getting the accelerator program's investment. Speak with your mentors about the terms of these SAFEs.

SAFEs issued after the start of the program with a discount and/or cap will trigger the MFN rights in the accelerator program's SAFE. If you need early access to the SAFE templates, reach out to your legal point of contact.

If your company is still in the process of converting or flipping to a Delaware C-corporation, you should not issue SAFEs to any investors without first consulting with your lawyer. Some companies will be able to issue SAFEs while the conversion/flip process is underway, but your lawyers will need to advise you on how to structure the investment and whether any special wording needs to be included in the SAFEs. For other companies, you will not be able to issue SAFEs while the flip/conversion process is underway because it would cause severe tax or other complications for your conversion/flip. Please don't self help. If you end up (with advice from your lawyers) taking investment while the conversion/flip is ongoing, you do need to mention your investors that you're in the process of converting or flipping since it is relevant information to the investment (it doesn't need to be a scary warning—this is super common for companies—just a heads up).

2. What Dollar Amount Should I Include in the Board Consent for Issuing SAFEs?

The standard SAFE form does not require you to enter a dollar amount. If you are using a form provided by your law firm that does require a dollar amount, you should generally include the total amount you're raising this entire SAFE financing round (not just the amount you're issuing on one SAFE, and not including prior SAFE financing rounds).

3. I Just Saw a Warning About Security Compliance and Federal Form D. What Do I Need to Know About Securities Filings?

In order to comply with US securities laws, every time companies issue securities (e.g., stock or SAFEs) they must either (a) comply with the state securities laws ("blue sky laws") in each state in which they issued the securities or (b) file a federal Form D in compliance with Regulation D covering the securities (the accredited investors exemption). Many founders do forget to make these filings, or inadvertently file them late. If you're in that bucket, don't sweat it

too much because your lawyers can help address this issue at the time of your priced round. More info on each type of filing below:

(a) State Blue Sky Laws: For the purposes of determining where securities were issued for blue sky purposes, what matters is where the stockholder or investor is located, not the company. Compliance in each state requires company counsel to confirm that an exemption is available, and there are legal costs involved in doing a state-by-state analysis. In some states there are self-executing exemptions where a filing isn't even required, but in other states exemptions may not be available unless the company filed a Form D. In California, the applicable filing to comply with state blue sky laws is the 25102(f) notice filing, and a separate Form D is not required.

(b) Form D: One of the benefits of filing a Form D and complying with Regulation D is that the company does not need to separately comply with a securities law exemption in each state where the securities are offered (though a copy of the Form D filing may need to be made in certain states). Form Ds are publicly available and often scraped by publications, so companies that don't want their financings to be publicly available should avoid filing a Form D and instead comply with the blue sky laws in each state in which securities were issued. You can try to file a Form D yourself, but it's much easier (and advisable) to have your lawyers involved.

There is a separate securities exemption for foreign investors (see the section below for details).

4. When Sending a SAFE, I Need to Decide on the "State of Jurisdiction" for the Governing Law. What State Should I Choose?

First off, it's unlikely to matter much so don't stress about it. Do be consistent across the SAFEs that you sign, to the extent possible. Most companies located in California choose California. Otherwise, Delaware usually makes the most sense.

5. Should My Lawyers Charge Me to Review SAFEs?

In general the SAFE is intended to be a very self-serve document, and you can manage the SAFE fundraising process yourself using standard

legal platforms (all you need are the board consent, the SAFE, and—occasionally—the standard pro rata side letter). Exceptions are if an investor: (i) provides a side letter (other than the standard pro rata side letter), (ii) marks up the SAFE, or (iii) sends you a detailed term sheet. In these situations your lawyer should be involved to review and (as necessary) negotiate the documents. You should send your lawyers copies of the fully executed SAFEs soon after signing them so that they can help you with securities compliance.

6. Should We Sign SAFEs Before or After the Investor Wires?

Best practice is to sign the SAFE before the investor wires, and "hold the signatures in escrow" until the investor wires. Standard platforms automatically handle this. The default mode for SAFEs are "manual" which means after all parties are signed you have to explicitly release the executed copies back to the parties. If you don't release them, they're void. You should only release them after funding happens. Even if you aren't using standard platforms, common document signing services have the ability for one party to hold them "in escrow." If you forget to do this or an investor wants you to release signatures before they wire, don't worry. It's best to have the SAFE dated close in time to the wire for accounting purposes, but it's not the end of the world if they aren't. But if you prematurely release the signatures from escrow and the investor does not wire after multiple follow-ups, you should nullify the SAFE using the form linked in the section on nullifying SAFEs, and send the investor a copy of the nullity.

7. I've Already Issued Convertible Notes. Can I Issue SAFEs to New Investors?

It's generally not advisable to issue both convertible notes and SAFEs since they are treated differently in a liquidation event (e.g. M&A) or dissolution event—outstanding convertible notes are treated as indebtedness and therefore have priority over any outstanding SAFEs, which are equity. So your safeholders would be disadvantaged in a liquidation or dissolution event—for example, if you issue $1M in notes and $2M in SAFEs and you dissolve (or are acquired) with $1M left to be distributed to your investors, everything would go to your noteholders and your safeholders would get nothing. This result is

different from what investors would expect, which is that the $1M would be distributed pro rata to the investors based on their investment amount. Of course, if the notes and SAFEs convert in an equity financing, everyone would be back on equal footing. If you do decide to mix notes and SAFEs, you will have to be much more careful to model out dilution—it won't be as simple as calculating dilution for your peers who have only raised on post money SAFEs.

8. Issuing MFN SAFEs.

8A. How Do I Issue an Uncapped SAFE With No MFN?

You can use the "Discount Only" SAFE and put "100%" as the "Discount Rate" (you'll see in the SAFE template that the brackets for that term say it should equal 100 minus the discount, and 100 minus 0 = 100).

8B. We Have a Couple Standard Uncapped MFNs We Signed Previously. We Recently Took on a Post Money SAFE With a Cap. Do the Uncapped MFN SAFEs Automatically Take the Cap? Or Do We Need to Notify All Previous Investors of the New Cap and Amend All the SAFEs?

The uncapped MFN SAFEs do not automatically take the cap of the new SAFEs. You will need to follow the instructions found in the section on MFN SAFEs to notify your previous investors of the new cap. If the investors choose to amend their SAFEs to take on the cap, there are templates available (assuming the new capped SAFEs are the standard capped SAFEs). If you reach out to legal resources we can help you with amendments. The standard uncapped MFN SAFEs are "use it and lose it"—once the investor amends and restates their SAFE to the new capped SAFE, they lose the MFN right, assuming the new capped SAFE has not been modified to add an MFN.

INVESTORS

9. Do My Investors Need to Be Accredited? What About for My "Friends and Family" Round?

Yes, in order to comply with U.S. securities laws, if you are raising money from investors, you should only take money from accredited investors. In general, an accredited investor that is an individual

must have a net worth of >$1M (excluding their primary residence), or they are someone with an income in excess of $200,000 in each of the two most recent years, or they have a joint income with their spouse in excess of $300,000 in each of those years. The accredited investor requirements don't apply to investments by foreign (non-U.S.) investors when the investor resides outside the U.S. Those investors don't need to be accredited because they meet the requirements of something called "Regulation S," which is described in more detail in Question 10 below.

Though technically there is an exception for companies with <35 unaccredited investors, it's very difficult to comply with securities laws if securities are offered to non-accredited investors (basically it subjects the company to complex reporting requirements involving the disclosure of financials and other information, as well as applying with applicable state laws, which requires analysis from your lawyers). It also complicates M&A transactions. If there are unaccredited investors in an exit in which the acquirer is a private company and part of the consideration is shares, then the company has to cash out all unaccredited investors, since an acquirer won't agree to issue shares to an unaccredited investor. This can significantly complicate a deal.

And perhaps most importantly, unaccredited investors can be challenging for companies to deal with if their investments go to zero, since they may not be in a position to lose the money they invested. Often founders find that the smallest investors end up taking the most time.

The SAFE is the instrument to use for a "friends and family" round, and there is not a separate securities exemption for "friends and family." It is recommended that friends and family be accredited—and be sure to take money only from friends and family that can afford to lose the money. You don't want to spend holidays hiding from your loved ones!

If you are raising from investors who are well-known angels or funds (i.e., they are in investor databases and have made many investments), most companies just rely on the statement in the SAFE that confirms that the investor is accredited. If that's not the case and you're not

sure if the investor is accredited, you can have them fill out an accredited investor questionnaire.

There are good explanations available online about why you should raise money only from accredited investors.

10. Are There Any Special Considerations for Foreign Investors?

Sanctions: First you should confirm that the investor does not reside in a country sanctioned by the US or other sanctions laws applicable to your company (as of February 21, 2022, the countries and regions comprehensively sanctioned by the US are Crimea, Donetsk, Luhansk (all disputed regions in Ukraine/Russia), Cuba, Iran, North Korea, and Syria). You should also confirm that the investor does not appear on OFAC's Specially Designated Nationals and Blocked Persons List in the US or other blocked persons lists applicable to your company.

Securities Laws: For foreign investors in a US company there is a separate securities exemption available if they do not qualify as an accredited investor—Regulation S. Under Regulation S investors do not need to be accredited. It's important for the purposes of Regulation S that the foreign investor is located outside of the US at the time of the transaction, and there are several conditions that must be met, e.g.:

- Offer and sale must be made in an "offshore transaction." The offer must not be made to a person in the U.S. and at the time of the sale the investor must be outside the U.S.
- No "directed selling efforts" of Regulation S securities are allowed in the United States (no "conditioning" of U.S. markets for the securities being offered, and steps must be taken to prevent U.S. persons from participating in the offshore offering).
- The Regulation S securities cannot be offered or sold to "U.S. persons" during a compliance period of one year following the closing of the Regulation S offering

Companies can conduct a Regulation D (accredited investors) offering and Regulation S offering simultaneously, and if the foreign investor qualifies as an accredited investor under U.S. laws they can still be

included in the Regulation D offering (and therefore be included in a Form D filing).

BEA Reporting: The US Department of Commerce requires US companies to file annual reports of foreign direct investments with the Bureau of Economic Analysis (BEA) if companies exceed certain thresholds. Companies trigger the basic thresholds if, for example, (1) a non-US entity acquires direct or indirect ownership or control of at least 10% of the company's outstanding "voting securities" and (2) the cost of acquiring such interest exceeds US$3 million. If a company meets these thresholds, the company must file a BE-13 form with the BEA. If the cost of the acquired interest does not exceed the US$3 million threshold, then the company may file a BE-13 Claim for Exemption. Please see the BEA website for more information.

Practical Considerations: (Please note, these are general tips and—as with everything in this section—should not be construed as legal advice; for specific legal advice you should consult with your own lawyer.) From a practical perspective, you should also think about your long-term objectives. Do you plan to partner with the US government in any way? If so, then having a Chinese investor on your cap table may hamper making that US government partnership a reality.

If your company is in aerospace, and particularly in space or other markets with defense applicability, you should be very cautious with regard to foreign ownership. Investment by investors from restricted countries is a non-starter (at least as a practical matter if they ever want to do business with US government). Investment by investors from "Five Eyes" countries is the least concerning (Australia/Canada/UK/US/New Zealand). Investment by investors domiciled in other close allied countries including many NATO countries are next in line. To the best of knowledge, there is no red line for ownership percentage, but clearly less is better and none is ideal. People often talk about rules of thumb (eg <10%) but these are common sense suggestions and not true guidelines. That your company remains US person-controlled is critical. Ownership profile must be disclosed as part of the registration process for US government contracting and must be updated if it changes. That said, for obtaining and performing on non-sensitive US government contracts,

minority foreign ownership should not be a material issue so long as controls are in place to avoid any regulatory snafus (e.g., illegally sharing export-controlled items with non-US persons/outside the country for example). It's still not ideal in the eyes of Department of Defense/Intelligence Community to have substantial foreign ownership—but they procure from foreign entities frequently and it's really not a big deal if the company is controlled by U.S. persons, has U.S. facilities, and follows the rules. Where things get challenging fast is bidding or participation in any kind of classified programs, developing cleared facilities, or handling any sensitive US government/Department of Defense/Intelligence Community information, etc. If you are seeking participation on classified programs, you will either need to: (1) avoid any investment that would trigger foreign ownership, control or influence (FOCI) concerns; or (2) institute FOCI mitigation procedures—which can be fairly straightforward if it's a tiny investment by an investor from a friendly country having no governance or information rights, but beyond that, it can quickly get complicated, time-consuming, and expensive. If you want to do classified work the best option by far is to avoid foreign ownership altogether.

11. I'm a US Company Considering Taking Investment From a Foreign Investor. Should I Be Worried About CFIUS?

Yes. You should be aware of a set of rules ("CFIUS") that will affect you if you raise money from foreign investors, with China and Russian based investors being particularly worrisome. CFIUS examines and sometimes restricts not only transactions providing foreign investors control of U.S. businesses but also non-controlling investments in certain types of U.S. businesses. And now parties are required to notify CFIUS of some foreign investment transactions. As of 2020, excepted investors from Australia, Canada, and the United Kingdom are exempt from the most significant effects of the CFIUS rules, including the mandatory filing requirements and the expanded scope of CFIUS's jurisdiction over certain non-controlling investments.

A self-assessment tool is available to help determine whether a transaction falls under the scope of CFIUS. This tool guides you through the regulations governing foreign investment in the United

States to determine: whether CFIUS may have authority to review a transaction; and if so, whether the transaction may trigger a mandatory filing.

If your transaction may fall under the jurisdiction of CFIUS, you should work with outside counsel experienced in advising on CFIUS and international investment. They may advise you to use a modified SAFE or a side letter to avoid triggering mandatory CFIUS filing requirements.

Here is the bottom line on CFIUS: Every U.S. business receiving investment from a foreign person will need to determine the export control status of its products and technology in order to determine if the CFIUS mandatory notification requirement applies. This will be the case even if the U.S. business never exports its products or technology. U.S. export control regulations are complicated and esoteric, so U.S. startups interested in taking foreign money should think about whether it's worth it, and be especially careful if (1) the investor is from a high-risk country from a US security perspective (e.g., China, Russia) and/or (2) you are an infrastructure, biotech, aerospace, semiconductor, data, or other company that deals with a sensitive technology / one that would be of national security interest. If both (1) and (2) are true (high risk country plus company working in a space of particular national security interest), it's in most cases not worth taking the investment.

12. I Have Been Approached by an Investor With Ties to Russia. What Should I Do?

There is strong public support for Ukraine and the efforts of Ukrainians following any invasion. Unfortunately there's no "right" answer if you are approached by investors with ties to Russia. The Russia situation is constantly evolving and it's impossible to know what will happen next. There is at least some risk with Russian investors right now, but we don't know how much risk there is and how things may change in the future. If you decide to proceed with taking this investment, you should definitely work with your own counsel to put the appropriate protections in place and confirm there are no ties

to blocked persons. It's your responsibility to police your cap table, and it's within your rights to ask questions.

13. What Is Typical Investor Diligence for a SAFE Round?

Asking for a cap table is pretty standard. So is asking for the company's charter (Certificate of Incorporation), bylaws, and potentially the founders' IP assignments and stock purchase agreements. If you have a subsidiary, they may want to see the formation documents related to the subsidiary.

Requesting a list of the other SAFE investors is also not an unusual ask, but most investors don't require it. Investors will find out the identities of the other investors once they invest (this all shows up in the Schedule of Purchasers in a priced round), but you're not obligated to provide it now—although many founders would (unless a particular investor has added a no-publicity clause in the SAFE or a side letter).

If an investor has been particularly demanding in terms of diligence requests, the larger question is whether you need the money/want the investor on your cap table. The number of requests will probably only increase as the company matures, especially if there are any tough periods along the way.

14. I Have a Potential Investor That Isn't Familiar With the SAFE. What Do I Do?

A SAFE user manual is available that you can share with the investor. If the investor still has questions, reach out to legal resources and they can work with you to help educate the investor.

15. My Investor Wants to Invest Using an IRA. Is This a Problem?

In general taking money from an IRA is fine. IRA custodians tend to ask for certain information every year that they need in order to value the investment, so there is a marginal amount of additional administrative time.

Some platforms have become increasingly popular among angels for IRA-based investments. Check out relevant onboarding resources if the

investment is going to be made through such a platform. The initial setup call will typically take 15-20 minutes.

Take care, however, that the investment wouldn't be considered a "prohibited transaction" under the IRS rules that apply to IRAs. Prohibited transactions for IRAs include transactions involving a "disqualified person," like a spouse or lineal descendant of an IRA fiduciary or service provider.

16. Is It a Problem to Have a Lot of Direct SAFE Investors on My Cap Table?

The short answer is no, it's not a big deal. The main impact of having a large number of SAFE investors will be in your first priced round when the SAFEs convert (i.e., Series Seed or Series A). Your priced round lead investor will want you to try to get all the SAFE investors' signatures to the priced round documents before closing, which will be a minor inconvenience and can add a couple extra days to your closing process (which you should plan for, especially around major holidays). However, SAFEs automatically convert into shares even if the SAFE investor doesn't sign the priced round documents, meaning the SAFE investor's signature technically isn't required to convert them into preferred stock.

So what happens if you're unable to get someone's signature? Whether your lead investor will hold up the closing over a missing SAFE investor signature is a case-by-case decision that depends on (a) who the SAFE investor is, (b) how big of a check they wrote, (c) whether they have any special rights that impact closing, and (d) why you're unable to get their signature. If the SAFE investor is a random angel who wrote a tiny check with no special rights and is simply unreachable because they're on vacation somewhere remote, your lead is likely to be comfortable closing without their signature. But if the SAFE investor is a top tier VC who wrote a big check with special rights via side letter and is refusing to sign until certain terms are changed in the documents, your lead will likely require this to be resolved before closing. In experience, smaller angel investors tend to just rubber stamp priced round documents for their SAFE conversion, so any missing signatures are typically due to the investor simply being unreachable (unlikely to hold up closing). The bigger VCs who

invested in your SAFE round will be reachable, but they will care about what's in the priced round documents and are much more likely to negotiate before signing (more likely to hold up closing).

After the SAFEs convert in your first priced round, you most likely won't need to go back to the smaller SAFE investors again for their signatures until an acquisition/IPO, or if you do something unusual like a recap. This is because once the SAFEs convert the SAFE investors just become preferred stockholders, and they usually make up a relatively small percentage of the preferred stock even if there are a lot of them. Whose signature you need going forward depends on the voting thresholds negotiated with your lead investor in the priced round documents, but thresholds are typically set around 50-67% of the preferred stock or a series thereof. Usually your priced round lead plus a couple other bigger investors will be sufficient to hit those thresholds, meaning the smaller SAFE investor's signatures won't be necessary for most matters. If the SAFE investors hold an outsized portion of the preferred stock, you can work with your lawyers and lead investor in the priced round to set voting thresholds that make sense for the company and ensure that you won't be hamstrung by a lot of small SAFE investors going forward (your lead investor won't want that either).

17. I Pivoted, and My Investor is Asking for Their Money Back. What Do I Do?

The investor isn't legally entitled to their money back. However, it's important to maintain a good relationship with your earliest supporters. Reach out to your mentors and legal resources to discuss how to manage this from a relationship standpoint.

18. I Signed a SAFE, But My Investor Never Wired. What Should I Do?

The SAFE requires payment in order to be a valid agreement. If it's been at least ten days since you signed the SAFE and the investor has not wired, and the investor has not responded to you after following up with the investor several times over email/text, you can use the form of unilateral nullification to terminate the SAFE. Keep the signed nullity, as well as copies of the unanswered emails/texts, in your company files along with the SAFE, and send the investor a copy

of the nullity. If, on the other hand, the investor has told you that they have changed their mind and aren't going to wire, or you have both agreed that they will not wire, you can use the form of mutual nullification.

IMPACT OF SAFES ON ISSUING EQUITY

19. Do I Need to Create a Stock Plan (aka Option Pool aka Stock Incentive Plan aka ESOP) Before Issuing SAFEs? What Size Should the Stock Plan Be?

You do not need to create a stock plan before issuing SAFEs, but you do need to create a stock plan before issuing stock to employees, consultants, and advisors. Occasionally SAFE investors will require in a side letter that you set up a stock plan of a certain size. If an investor does this, speak to your lawyer or reach out to legal resources before agreeing.

Once you decide to set up a stock plan, you need to determine what size it should be. Based on the conversion mechanic in the SAFE, it is in the company's benefit to keep the size of the stock plan lean before your Series A. This is because the SAFEs include the number of shares authorized and unallocated under the existing stock plan in the denominator for calculating the SAFE conversion price (they do not include any increases to the stock plan made in connection with the Series A in the denominator unless those shares were already promised to service providers). So the SAFE holders benefit from a larger existing stock plan, because they are not diluted by it. There is almost always a stock plan increase negotiated by the lead investors in connection with a priced round, which usually requires around ~10% of the company's post-financing fully diluted capitalization to be reserved under the plan. If your plan is much larger than that at the time of a priced round, you may have a hard time negotiating with the lead investors to decrease it (this matters because the new investors are also not diluted by the existing stock plan or—typically—by any stock plan increase).

What is "lean" depends on your company and hiring plan, but is probably between 5-10% of the fully diluted capitalization. If you end up with a stock plan that is too small, it isn't very complicated or

expensive to work with lawyers to increase it (there are also templates available, but they're best used under the supervision of a lawyer).

Note: for Delaware companies, the shares reserved under the stock plan cannot exceed the number of authorized but unissued shares under your Certificate of Incorporation. So if all of the authorized shares have been issued to the founders, you will first need to amend your Certificate of Incorporation to increase the number of authorized shares by making a filing with the State of Delaware before setting up your stock plan.

20. Do I Need a 409A Valuation?

After you've raised outside money from investors, the best way to issue equity to your service providers is to get a 409A valuation and issue them stock options (or restricted stock) at the 409A price. These days 409As are a lot cheaper than they used to be and you can find deals on various platforms. Potential investors and acquirers tend to look at this with much greater scrutiny than they used to, so if you issue stock options without a 409A it could be a red flag in future diligence (i.e. headaches for you and potentially higher legal fees to address, in addition to the possibility of severe negative tax consequences for your service providers). You will need to get a new 409A valuation at least every 365 days, and earlier if there has been a material event like a financing.

SAFE FAQs for Companies Formed in the Caymans, Canada or Singapore

Important Note: All of the answers below are tailored for companies that have formed a Cayman, Canada or Singapore parent company. For any legal questions, you should seek the advice of lawyers in your jurisdiction. If you are a LatAm company with a Cayman Holding Company - Delaware LLC structure, you should also review question 10 in the SAFE FAQs for U.S. companies relating to sanctions laws, since U.S. sanctions laws apply to all U.S. formed businesses.

ISSUING SAFEs

1. How Do I Get Access to the SAFEs? Can I Issue SAFEs to Other Investors Before Getting My Accelerator Program's Investment?

You will automatically be granted access to SAFE templates after your program has completed its investment.

If you were initially set up as a Cayman, Canada or Singapore company, and you are not converting or flipping an existing entity into a new company in connection with your program's investment, you may issue SAFEs to other investors after the program starts but before getting the investment. Speak with your mentors about the terms of these SAFEs. SAFEs issued after the start of the program with a discount and/or cap will trigger the MFN rights in your program's SAFE. If you need early access to the SAFE templates, reach out to your legal point of contact.

If your company is still in the process of converting or flipping to a Cayman, Canada or Singapore company, you should not issue SAFEs to any investors without first consulting with your lawyer. Some companies will be able to issue SAFEs while the conversion/flip process is underway, but your lawyers will need to advise you on how to structure the investment and whether any special wording needs to be included in the SAFEs. For other companies, you will not be able to issue SAFEs while the flip/conversion process is underway because it would cause severe tax or other complications for your conversion/flip. Please don't self help. If you end up (with advice from your lawyers) taking investment while the conversion/flip is ongoing, you do need to mention your investors that you're in the process of converting or flipping since it is relevant information to the investment (it doesn't need to be a scary warning—this is super common for companies—just a heads up).

2. What Dollar Amount Should I Include in the Board Consent for Issuing SAFEs?

If you are using a form provided by your law firm that requires a dollar amount, you should generally include the total amount you're

raising this entire SAFE financing round (not just the amount you're issuing on one SAFE, and not including prior SAFE financing rounds).

3. Does My Program Have a Form of Discount Only, or an Uncapped MFN SAFE for the Caymans, Canada or Singapore?

Check with your program. If standard forms are not available, you should work with your lawyer to prepare a template based on available standard forms.

4. Should We Sign SAFEs Before or After the Investor Wires?

Best practice is to sign the SAFE before the investor wires, and "hold the signatures in escrow" until the investor wires. Standard legal platforms automatically handle this. The default mode for SAFEs are "manual" which means after all parties are signed you have to explicitly release the executed copies back to the parties. If you don't release them, they're void. You should only release them after funding happens. Even if you aren't using such platforms, common document signing services have the ability for one party to hold them "in escrow." If you forget to do this or your investor wants you to release signatures before they wire, don't worry. It's best to have the SAFE dated close in time to the wire for accounting purposes, but it's not the end of the world if they aren't. But if you prematurely release the signatures from escrow and the investor does not wire after multiple follow-ups, you should nullify the SAFE using the form provided in question 6 below.

5. Should My Lawyers Charge Me to Review SAFEs?

In general the SAFE is intended to be a very self-serve document, and you can manage the SAFE fundraising process yourself using standard legal platforms (all you need are the board consent, the SAFE, and—occasionally—the standard pro rata side letter). Exceptions are if an investor: (i) provides a side letter (other than the standard pro rata side letter), (ii) marks up the SAFE, or (iii) sends you a detailed term sheet. In these situations your lawyer should be involved to review and (as necessary) negotiate the documents. You should send your lawyers copies of the fully executed SAFEs soon after signing them so that they can help you with securities compliance.

6. I Signed a SAFE, and Then the Investor Didn't Wire. What Do I Do?

The SAFE requires payment in order to be a valid agreement. If it's been at least ten days since you signed the SAFE and the investor has not wired, and the investor has not responded to you after following up with the investor several times over email/text, you can use the form of unilateral nullification to terminate the SAFE. Keep the signed nullity, as well as copies of the unanswered emails/texts, in your company files along with the SAFE, and send the investor a copy of the nullity. If, on the other hand, the investor has told you that they have changed their mind and aren't going to wire, or you have both agreed that they will not wire, you can use the form of mutual nullification.

7. I've Already Issued Convertible Notes. Can I Issue SAFEs to New Investors?

It's generally not advisable to issue both convertible notes and SAFEs since they are treated differently in a liquidation event (e.g. M&A) or dissolution event—outstanding convertible notes are treated as indebtedness and therefore have priority over any outstanding SAFEs, which are equity. So your safeholders would be disadvantaged in a liquidation or dissolution event—for example, if you issue $1M in notes and $2M in SAFEs and you dissolve (or are acquired) with $1M left to be distributed to your investors, everything would go to your noteholders and your safeholders would get nothing. This result is different from what investors would expect, which is that the $1M would be distributed pro rata to the investors based on their investment amount. Of course, if the notes and SAFEs convert in an equity financing, everyone would be back on equal footing. If you do decide to mix notes and SAFEs, you will have to be much more careful to model out dilution—it won't be as simple as calculating dilution for your peers who have only raised on post money SAFEs.

INVESTORS

8. What Is Typical Diligence for a SAFE Round?

Asking for a cap table is pretty standard. So is asking for the company's charter (Certificate or Articles of Incorporation), bylaws,

and potentially the founders' IP assignments and stock purchase agreements. If you have a subsidiary, they may want to see the formation documents related to the subsidiary.

Requesting a list of the other SAFE investors is also not an unusual ask, but most investors don't require it. Investors will find out the identities of the other investors once they invest (this all shows up in the Schedule of Purchasers in a priced round), but you're not obligated to provide it now—although many founders would (unless a particular investor has added a no-publicity clause in the SAFE or a side letter).

If an investor has been particularly demanding in terms of diligence requests, the larger question is whether you need the money/want the investor on your cap table. The number of requests will probably only increase as the company matures, especially if there are any tough periods along the way.

9. I Have a Potential Investor That Isn't Familiar With the SAFE. What Do I Do?

A SAFE user manual is available that you can share with the investor. If the investor still has questions, reach out to legal resources and they can work with you to help educate the investor.

10. Is It a Problem to Have a Lot of Direct SAFE Investors on My Cap Table?

Caymans and Canada: The short answer is no, it's not a big deal. The main impact of having a large number of SAFE investors will be in your first priced round when the SAFEs convert (i.e., Series Seed or Series A). Your priced round lead investor will want you to try to get all the SAFE investors' signatures to the priced round documents before closing, which will be a minor inconvenience and can add a couple extra days to your closing process (which you should plan for, especially around major holidays). However, SAFEs automatically convert into shares even if the SAFE investor doesn't sign the priced round documents, meaning the SAFE investor's signature technically isn't required to convert them into preferred stock.

So what happens if you're unable to get someone's signature? Whether your lead investor will hold up the closing over a missing SAFE investor signature is a case-by-case decision that depends on (a) who the SAFE investor is, (b) how big of a check they wrote, (c) whether they have any special rights that impact closing, and (d) why you're unable to get their signature. If the SAFE investor is a random angel who wrote a tiny check with no special rights and is simply unreachable because they're on vacation somewhere remote, your lead is likely to be comfortable closing without their signature. But if the SAFE investor is a top tier VC who wrote a big check with special rights via side letter and is refusing to sign until certain terms are changed in the documents, your lead will likely require this to be resolved before closing. In experience, smaller angel investors tend to just rubber stamp priced round documents for their SAFE conversion, so any missing signatures are typically due to the investor simply being unreachable (unlikely to hold up closing). The bigger VCs who invested in your SAFE round will be reachable, but they will care about what's in the priced round documents and are much more likely to negotiate before signing (more likely to hold up closing).

After the SAFEs convert in your first priced round, you most likely won't need to go back to the smaller SAFE investors again for their signatures until an acquisition/IPO, or if you do something unusual like a recap. This is because once the SAFEs convert the SAFE investors just become preferred stockholders, and they usually make up a relatively small percentage of the preferred stock even if there are a lot of them. Whose signature you need going forward depends on the voting thresholds negotiated with your lead investor in the priced round documents, but thresholds are typically set around 50-67% of the preferred stock or a series thereof. Usually your priced round lead plus a couple other bigger investors will be sufficient to hit those thresholds, meaning the smaller SAFE investor's signatures won't be necessary for most matters. If the SAFE investors hold an outsized portion of the preferred stock, you can work with your lawyers and lead investor in the priced round to set voting thresholds that make sense for the company and ensure that you won't be hamstrung by a lot of small SAFE investors going forward (your lead investor won't want that either).

Singapore: There is one big exception—and that is for Singapore companies. Singapore places an upper limit of 50 shareholders in private placements under securities laws, so if you plan to take investment from many investors, you may wish to discuss structuring considerations with your lawyers, such as using a "special purpose vehicle" (SPV) or "roll-up vehicle" (RUV). A private limited company may be compulsorily converted into a public company by the Singaporean courts and/or Companies Registrar if it breaches the 50 shareholder limit. This will result in the company having to prepare a prospectus like statement. Unlisted public companies that meet certain criteria (ie., net tangible assets over a certain amount) are also subject to takeovers and mergers regulations. The corporate governance requirements for public companies is also more onerous than private companies and differ in several respects, for example, the audit requirements (and applicable exemptions) and timing for EGM notices. Overall, the impact of the 50 shareholder limit in the context of high-growth tech companies does not appear to be fully fleshed out, but the potential ramifications of inadvertently converting to a public company are significant enough such that it remains a live issue to be aware of and worthwhile to structure around.

11. I Have Been Approached by an Investor With Ties to Russia. What Should I Do?

There is strong public support for Ukraine and the efforts of Ukrainians following any invasion. Unfortunately there's no "right" answer if you are approached by investors with ties to Russia. The Russia situation is constantly evolving and it's impossible to know what will happen next. There is at least some risk with Russian investors right now, but we don't know how much risk there is and how things may change in the future. If you decide to proceed with taking this investment, you should definitely work with your own counsel to put the appropriate protections in place and confirm there are no ties to blocked persons. It's your responsibility to police your cap table, and it's within your rights to ask questions.

12. My Investors Asked Me to Sign a Side Letter That Says Something About PFIC / CFC. What Is This?

If you are formed in Singapore, the Caymans or Canada (or anywhere outside of the U.S.) and the investor is based in the U.S, this is normal. For tax reasons, each U.S. investor in a company formed outside the U.S. needs to determine whether your company meets the definition of either a Controlled Foreign Corporation ("CFC") or Passive Foreign Investment Company ("PFIC"). Unless you perform the analysis and proactively provide each U.S. investor with the results, you will be asked to fill out a basic questionnaire and provide consolidated financial statements (or if not available, quarterly standalone income statements and balance sheets for all of the entities in your structure), a copy of your cap table, as well as a chart that explains your corporate legal structure.

There is an article that explains aspects of the issue in more detail than you likely want. It's recommended to ask the investor if they are amenable to using the same form as you already signed. If not, you should run this by your accountant/tax advisor to see if they have comments—it's really more of a tax and reporting issue than a legal question per se.

13. I Pivoted, and My Investor is Asking for Their Money Back. What Do I Do?

The investor isn't legally entitled to their money back. However, it's important to maintain a good relationship with your earliest supporters. Reach out to your mentors and legal resources to discuss how to manage this from a relationship standpoint.

IMPACT OF SAFES ON ISSUING EQUITY

14. Do I Need to Create a Stock Plan (aka Option Pool aka Stock Incentive Plan aka ESOP) Before Issuing SAFEs? What Size Should the Stock Plan Be?

You do not need to create a stock plan before issuing SAFEs, but you do need to create a stock plan before issuing stock to employees, consultants, and advisors. Occasionally SAFE investors will require in a side letter that you set up a stock plan of a certain size. If an investor does this, speak to your lawyer or reach out to legal resources before agreeing.

Once you decide to set up a stock plan, you need to determine what size it should be. Based on the conversion mechanic in the SAFE, it is in the company's benefit to keep the size of the stock plan lean before your Series A. This is because the SAFEs include the number of shares authorized and unallocated under the existing stock plan in the denominator for calculating the SAFE conversion price (they do not include any increases to the stock plan made in connection with the Series A in the denominator unless those shares were already promised to service providers). So the SAFE holders benefit from a larger existing stock plan, because they are not diluted by it. There is almost always a stock plan increase negotiated by the lead investors in connection with a priced round, which usually requires around ~10% of the company's post-financing fully diluted capitalization to be reserved under the plan. If your plan is much larger than that at the time of a priced round, you may have a hard time negotiating with the lead investors to decrease it (this matters because the new investors are also not diluted by the existing stock plan or—typically—by any stock plan increase).

What is "lean" depends on your company and hiring plan, but is probably between 5-10% of the fully diluted capitalization. If you end up with a stock plan that is too small, it isn't very complicated or expensive to work with lawyers to increase it.

Common Investing Terms and Rights

The following are common investing terms and rights (in alphabetical order).

Blocking Rights

What it is: "Blocking Rights" are investor veto rights over actions proposed to be taken by the company, usually granted in connection with a Preferred Stock financing.

What you'll see: Often a lead investor will try to set the Preferred Stock voting thresholds in a Series A financing high enough that the

lead investor will have "blocking rights" over the "Protective Provisions" (described below under "Preferred Stock Terms") and other actions where a vote of the Preferred Stock is required. In later rounds, investors may set the Preferred Stock voting thresholds so that two or three investors together have blocking rights, or to avoid a situation where a single earlier investor would have a blocking right. Priced round investors are most protective around maintaining blocking rights over the following (which protect their economics): (1) auto-conversion of their Preferred Stock into Common Stock; (2) waiver of their liquidation preference and waiver of the treatment of something as a liquidity event; and (3) waiver of their anti-dilution protections.

Board Observers

What it is: Board observers are non-voting participants at meetings of the company's board of directors. They are entitled to receive all information provided to members of the board, but are not permitted to formally vote on matters submitted for a vote. Unlike actual directors, board observers do not owe fiduciary duties to the company. Board observers should be subject to confidentiality, and the company should be able to exclude observers from board meetings to preserve the company's attorney client privilege, particularly when the board is discussing potential litigation or if there is a potential conflict of interest. Board observers are sometimes less innocuous than they might seem, because even though they are non-voting, observers can materially affect the direction of board conversations.

What you'll see: A board observer right may be contained in an investors rights' agreement (in connection with a priced round) or a side letter signed in connection with a SAFE. In a priced round, a board observer right may be provided to the investor in addition to or instead of the right to designate one or more board seats. A board observer right may be requested for a variety of reasons, including (1) the investor is the largest check of your SAFE fundraise (it is very uncommon to grant a voting board seat in a SAFE financing); (2) the desire of a VC to bring associates or other members of its team to board meetings in the event it already has a voting board seat, or (3) as an alternative to a voting board seat in the event the investor is

writing a big check but is not the lead of a priced round, since it would be unmanageable to give a board seat to every investor. If you decide to grant a board observer seat in connection with a SAFE financing, it should be limited to your largest check (or checks). You should be especially careful if a strategic investor requests a board observer seat—they can use the role of observer to gain competitive intelligence on the company, so push back and/or proceed with caution.

Convertible Notes

What it is: Convertible Notes are a type of convertible security that convert into preferred stock in a priced round. Convertible Notes carry interest and have a maturity date, unlike SAFEs. Convertible Notes are debt, and therefore have seniority (are paid out in priority over) SAFEs in a liquidity event or dissolution. This is why we don't recommend mixing SAFEs and Convertible Notes.

Discounts

What it is: The "conversion discount" or "discount" refers to the discount from the price per share paid by investors in the Series A that SAFE investors will receive upon conversion of the SAFE into Series A. Discounts tend to range from 10-20%. Example: If the discount is 20% and the price paid by the VC for Series A is $1.00 per share, then each $0.80 of SAFE money would convert into one share of Series A. The purpose of the discount is to give the investor an appropriate return for investing in the company prior to a VC's Series A round.

What you'll see: Discounts are not as prevalent as they have been in the past. The vast majority of SAFEs have a cap with no discount, and this is what is recommended as a default.

For SAFEs with discounts, you can either have a SAFE that has no cap and only a discount, or a SAFE with both a discount and a cap.

Having a SAFE with only a discount (and no cap) is straightforward. Suppose you have a 20% discount (no cap) SAFE. That means that whatever valuation your Series A investors get, your SAFE investors get a 20% discount to that price.

Having both a cap and a discount results in an "either/or" situation for the investor. This is a bit confusing, and sometimes investors who are asking for both a cap and a discount do not understand how it works. Here's how this kind of SAFE works. Suppose you raise $1M on a $10M cap SAFE with a 20% discount. Then, two years later, you raise a Series A at a $30M valuation. In that case, the investor's ownership will be 1M/MIN(10M, 30M*(1-0.2)) = 1M/MIN(10M, 24M) = 1M/10M = 10%. So as you can see, the discount had no effect. It would only have come into play if you had raised a priced round with a valuation less than $~12M, and that's pretty uncommon these days.

The short version is that typically, for a SAFE with both a discount and a cap, the discount will not have any effect unless you raise a priced round on terms that are much worse than you anticipated.

Standard forms used to provide a SAFE that had both a discount and a cap, but it was deprecated and removed because it's confusing and not really useful.

Fully Diluted Capitalization

"Fully-diluted capitalization" is most commonly understood to include (i) all outstanding common stock, (ii) all outstanding preferred stock (on an as-converted to common stock basis), (iii) all outstanding options, warrants, and other securities with a right to acquire shares (excluding safes and convertible notes) and (iv) any shares reserved for issuance under the stock plan. The fully-diluted capitalization of the company changes as it issues Preferred Stock, SAFEs convert, the stock pool increases, etc.

Information Rights

What it is: Information rights require a company to provide investors with financial statements and other company information. A typical information rights clause may ask for unaudited financial statements within [90] days following year-end, unaudited quarterly financial statements, annual business plans, access to management, etc.

What you'll see: Information rights are standard in priced rounds. Sometimes, investors will also ask for information rights in

connection with a SAFE. If the information rights are limited, these are generally reasonable to give, especially if the investor is writing a big check, but if you're not already preparing these financials it can be a hassle to have to put them together just for a single investor. Be sure the information rights don't require audited (as opposed to unaudited) financials. Any information rights that an investor is entitled to should also be covered by a confidentiality provision in favor of the company, which does not terminate with the termination of the applicable side letter.

Major Investor Rights

What it is: "Major Investor Rights" are the rights given to the major investors in your priced round. Major Investor Rights include certain information rights, inspection rights and rights of first offer (participation rights). The threshold for who qualifies as a "major investor" will be negotiated as part of the priced round, but it typically includes your lead investor and a couple of the other largest checks in the round.

What you'll see: Occasionally, investors in your SAFE round will ask for "major investor rights" in a side letter. The letter will say something like "in connection with the conversion of the SAFE in the Equity Financing, the Company agrees that the Investor shall be deemed to be a "Major Investor" (or any similar term, to the extent such concept exists) for all purposes in the Company's financing documents that are entered into in connection with the Equity Financing." Whether this is a reasonable request depends on the size of the check (e.g., asking for major investor rights if the investor is putting in $1M is likely reasonable; if they are putting in $10k, it is not) and your negotiating leverage.

Management Rights Letters ("MRLs")

What it is: Management Rights Letters are letters that contain very basic information rights and guarantee management access. MRLs are not evil and are needed by funds for their own compliance purposes.

What you'll see: In the context of SAFEs, many companies are asked to sign "MRL letters" which provide basic information rights, but

startups need to review MRLs to make sure the language is not overreaching—and be sure that any information you provide is covered by confidentiality provisions. Do not be concerned when you receive an MRL; do review the MRL to make sure it covers very basic rights, and nothing more. If the MRL looks like the standard NVCA form, there is nothing to worry about.

MFN (Most Favored Nation) Provision

What it is: Typical MFN clauses ensure that an early investor receives the benefits of more investor friendly terms negotiated by later investors. Example: Company issues $100K SAFE with a $10mm cap on March 1 to Investor A; Company issues $100K SAFE with an $8mm cap on March 30th; the company needs to inform the first investor of the later $8mm SAFE. The earlier investor can then decide to amend his/her SAFE to match the terms of the $8mm SAFE, and benefit from the lower cap. MFN clauses need to be reviewed carefully, though, because there are MFNs that allow investors to cherry pick better terms given to other investors, and MFNs that apply to SAFEs issued to earlier or later investors—neither of these formulations should be agreed to.

What you'll see: Typically, MFN's are found in "uncapped" SAFEs because early investors will want to benefit from the cap that is negotiated by future investors. It's preferable to keep investors on the same terms (i.e. same cap), but there is generally no need for an MFN clause in any SAFE that establishes a "cap." You can always volunteer to keep investors on the same terms rather than include a contractual right to amend and restate your SAFE.

Our take: It is usually not recommended to give an MFN to investors with capped SAFEs. Here is the rationale: the MFN says that if you offer better terms to any other investor, you have to give this investor those same terms. It's only supposed to be used when an investor gives you an uncapped SAFE that has no valuation because they want someone else to set the price (which they then get through the MFN). Giving the MFN when you already have an agreed valuation means you won't be able to lower the cap for anyone else without giving this investor the benefit of the lower cap (not just now, but indefinitely until all SAFEs convert). Basically it's the investor saying "I like

the ownership I've negotiated, but you can't give someone else a better deal." But if the investor likes their deal enough to fund you, they shouldn't care since on a post-money SAFE the investor's own ownership won't be impacted by what those other SAFE investors get.

Preferred Stock; Series A; Equity Rounds

What it is: "Preferred Stock," "Series A," and "Priced Round" are synonyms that describe the process of selling Preferred Stock (instead of issuing SAFEs) to finance your company. Preferred Stock is the class of stock issued to investors in a priced round. Preferred Stock is different from the class of stock held by founders and other employees (which is called "Common Stock") because the holders of Preferred Stock receive special economic and voting rights and preferences. SAFEs (and convertible notes) will convert into Preferred Stock in connection with a priced round.

Preferred Stock Terms: The following short explanation of some of the important terms in a Preferred Stock financing will give you a taste of the issues involved when you sell Series A Preferred Stock:

Liquidation Preference: The liquidation preference describes how a company's money is distributed when there is a liquidity event. A liquidity event is triggered by a winding down of the company or a sale of the company or all/substantially all of its assets. Investors that hold Preferred Stock typically receive all of their money back before the founders that own Common Stock receive any proceeds in a Liquidity Event.

Anti-Dilution Protection: Anti-dilution protection refers to protection from dilution when shares of stock are sold at a price per share less than the price paid by earlier investors.

Protective Provisions: Protective Provisions are essentially "veto rights" that allow investors that hold Preferred Stock to block certain company actions (e.g. consummate mergers, sell shares, issue debt) unless those actions are approved by the holders of an agreed-upon percentage of the Preferred Stock.

Pre-Money / Post-Money Valuation

**What it is

Continue

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:** "Pre-money" refers to the company's valuation before the new money comes in, while "Post-money" refers to the valuation after the new money comes in. So in a priced round with $20M in new money, an $80M pre-money valuation is the same as a $100M post-money valuation.

What you'll see: It's much more common for the existing SAFEs/convertibles and/or stock pool increase to be included in the pre-money, which means they have no impact on the company's post-money valuation.

Pro-Rata Rights

What it is: A "pro-rata right" is a right given to an investor to participate in future rounds so that he/she can maintain the same percentage ownership in your company.

What you'll see: Pro-rata rights are not evil, and are typical in practically every financing. A standard pro rata rights side letter to accompany the SAFE is available from standard legal resources. The letter grants a pro rata right with respect to securities issued in the "conversion" equity financing in which the SAFE converts into preferred stock, but does not grant a pro rata right to securities issued in later rounds. In priced rounds, a subset of investors that meet the negotiated "Major Investor" threshold will typically receive pro rata rights in future rounds pursuant to the Investors' Rights Agreement or a similar document.

Standard form for SAFE investors: Standard legal resources provide a standard form of pro rata side letter available for companies to use in connection with a SAFE financing, which provides for a pro rata right in the SAFE conversion round. Also see detailed guidance for whether to agree to the standard form of pro rata side letter.

Investor Asks: Investors sometimes ask for pro-rata rights in rounds following the conversion round. A perpetual pro rata right in future rounds should be considered carefully and given to very few investors, if any, given its expected impact on founder dilution. These perpetual pro rata rights are rare in SAFE financings, and limited to the "Major Investors" in a priced round. Occasionally, investors will ask for "super" pro rata rights in the SAFE conversion round or even in rounds following the conversion round. A super pro rata right allows the investor to invest more than their pro rata amount. Super pro rata rights are not a common term. It's basically an option for the investor to increase its ownership if the company is excelling, and this option comes at the expense of the company because this term also complicates future fundraising and can create allocation issues.

SAFEs

What it is: "Simple Agreement for Future Equity" or SAFE. The SAFE is a type of convertible security that converts into preferred stock in a priced round. The SAFE does not carry interest or have a maturity date. The SAFE is equity, not debt.

Valuation Cap

A valuation cap is a ceiling on the price SAFE holders will pay for the stock they get on conversion of the SAFE (it is not a floor).

SAFE Conversions

(1) You can quickly estimate the amount of dilution associated with a post-money SAFE by dividing the principal amount of the SAFE by the post-money valuation cap. So a $1M SAFE at a $10M post-money valuation cap represents ~10% dilution.

(2) Post-money SAFEs dilute only the common stock (founders and other employees) until a priced round. The other safeholders are not diluted by subsequent SAFEs that the company issues prior to a priced equity round.

(3) Post-money SAFE ownership is post-SAFEs. It is not post-priced round. The SAFEs are like their own round, which means they are diluted by the priced round (just like everyone else).

It is strongly recommended to use a tool like standard cap table platforms or other modeling tools to model the dilutive impact SAFE conversions. Many founders don't understand that they've already given away a substantial portion of their company until the time of the priced round, when SAFE conversions are modeled out. Don't let this be you.