

LEGAL FRAMEWORK FOR THE DEVELOPMENT OF VENTURE CAPITAL IN
CHINA:
POLICY RECOMMENDATIONS FOR THE ESTABLISHMENT OF A
GROWTH ENTERPRISE MARKET (“GEM”)

A DISSERTATION
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IN PARTIAL FULFILLMENT OF THE REQUIREMENTS
FOR THE DEGREE OF
DOCTOR OF THE SCIENCE OF LAW

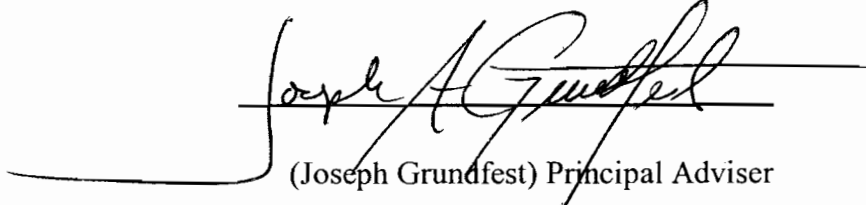
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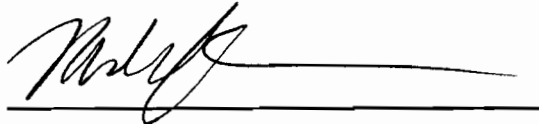
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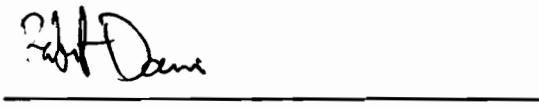
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Abstract

Experimentation with Venture capital (VC) investment into high growth companies in China began in the 1990's. The past few years have seen rapid growth of foreign venture capital investment into Chinese-founded companies that are incorporated offshore (mostly in the Cayman Islands), operated in China, and listed in Hong Kong or on the NASDAQ. However, legal and institutional developments have lagged behind. This dissertation summarizes and evaluates the development of venture capital practice in China to date. It explains how China's recently developed "off-shore" system operates despite existing legal obstacles, compares China's VC system to China's banking system and government guaranteed loan program, and identifies ways to improve the relevant legal and institutional framework necessary for the growth of VC investment into China. By examining scholarly literature on the importance of a stock market as an exit mechanism for venture capital, this paper compares and analyzes Israel's experiences and China's current practice of piggybacking on institutions of the U.S. and other countries. This comparative analysis of the piggybacking or off-shore model reveals that this model does work to a certain extent but would not be scalable as a long term strategy for China because China's vast domestic market demands home-grown or transplanted institutions. This dissertation concludes with a policy recommendation that China should consider opening a NASDAQ type Growth Enterprise Market ("GEM"). A GEM could contribute to the further development of China's venture capital financing via improved accounting standards, increased leveraging on imported professional services, and establishment of a specialized court to improve corporate governance and capital market regulations.

Table of Contents

Abstract.....	iv
Acknowledgement.....	v
Table of Contents.....	vii
List of Tables and Figures	viii
Abbreviations	ix
Chapter I Introduction.....	1
Chapter II Dynamics of China’s Current Venture Capital System	6
A. How Has China’s Venture Capital System Evolved since the 1980s?.....	6
1. Small and Medium Enterprises Financing	6
2. Promotion of Science and Technology	18
B. The VC Market Today: Players, Organizations, and Funding Sources:	27
C. Form of the Chinese Venture Capital Organizations and Recent Development	39
Chapter III Evaluation of the Legal and Institutional Framework.....	49
A. The Misunderstood Government Role.....	49
B. Legal Framework for Fund Formation in China.....	58
1. Introduction.....	58
2. Existing Laws Governing Venture Capital Fund Formation.....	59
3. Special Rules of Foreign Invested Venture Capital Enterprises.....	69
C. Legal Framework Concerning Exit Strategies	87
1. IPO on Domestic Markets.....	87
2. Listed on Overseas Securities Markets.....	129
3. Limitations of the “Cayman Model”—an Analysis of the Current System	159
Chapter IV Lessons from Abroad.....	171
A. The Silicon Valley Model in the United States.....	171
1. Funds Formation Practice and Major Government Policy.....	172
2. Exit Strategies and Institutional Framework.....	177
B. The Israeli Model-A Successful Story of Piggybacking on Other’s Institutions.....	179
1. Development of Israeli Venture Capital Industry.....	180
2. Success of Piggybacking on Other’s Institutional Framework	190
3. Limitations of the Piggybacking.....	199
Chapter V Conclusion and Policy Recommendations.....	211
References.....	214