

Chapter 15

Long-Term Financing: An Introduction

长期融资：简介

Key Concepts and Skills

- Describe the basic features of common and preferred stock.
- Understand the different types of bonds and how bond characteristics impact the required yield.

Features of Common Stock 普通股特征

- Voting rights (Cumulative vs. Straight)
 - Shareholders control the corporation through the right to elect the directors
 - **Cumulative voting** 累计投票制:
 - the directors are elected all at once and the top N vote getters will be the new directors
 - the total number of votes that each shareholder may cast is calculated as the number of shares multiplied by the number of directors to be elected (N)
 - A shareholder can distribute votes however she wishes
 - if there are N directors up for election, then $1/(N+1)$ percent of the stock plus one share will guarantee you a seat
 - The effect of cumulative voting is to permit minority participation
 - **Straight voting** 多数投票制:
 - the directors are elected one at a time
 - the only way to guarantee a seat is to own 50 percent plus one share
 - all or nothing

Features of Common Stock

- **Proxy voting** 委托代理投票权
 - A proxy is the grant of authority by a shareholder to someone else to vote her shares
- **Classes of stock**
 - the classes are created with unequal voting rights
 - Google has two classes of common stock, A and B. The Class A shares are held by the public, and each share has one vote. The Class B shares are held by company insiders, with each Class B share having 10 votes.
- Other rights
 - Share proportionally in declared dividends
 - Share proportionally in remaining assets during liquidation
 - Preemptive right – first shot at new stock issue to maintain proportional ownership if desired

The Dual-Class Share Structure

- Dual-class share structure allow insiders to hold common stock with multiple votes per share, while the public holds common stock with only one vote per share
- NASDAQ and NYSE both allow companies with the dual-class share structure to list on the securities exchanges. Not all stock exchanges allow this kind of deviation from the basic “one share one vote” shareholder structure
- With the superior voting rights in hand, although an IPO will reduce the management’s proportion of stock ownership, management has no concern with their control over the company being diluted
- Short-termism refers to companies taking actions that are profitable in the short term but do no good to the companies in the long term. A typical example of short-termism is that a company, under the pressure of activist investors, seeks to increase short-term earnings by cutting research that would be beneficial in the long run

Google first founders' letter, 2004

https://www.sec.gov/Archives/edgar/data/1288776/000119312504143377/d424b4.htm#toc59330_1

- “We are creating a corporate structure that is designed for **stability over long time horizons**.
- We want Google to become an important and significant institution. That takes time, stability and independence...
- In the transition to public ownership, we have set up a corporate structure that will make it harder for outside parties to take over or influence Google. This structure will also make it easier for our management team to **follow the long term, innovative approach** emphasized earlier...
- The main effect of this structure is likely to leave our team, especially Sergey and me, with increasingly significant control over the company's decisions and fate, as Google shares change hands...
- New investors will fully share in Google's long term economic future but will have little ability to influence its strategic decisions through their voting rights...
- Our colleagues will be able to trust that they themselves and their labors of hard work, love and creativity will be well cared for by a company **focused on stability and the long term**...
- As an investor, you are placing a potentially risky long term bet on the team, especially Sergey and me. Sergey and I are committed to Google for the long term.”

Google founders' letter, 2012

- While this decision was controversial at the time, we believe with hindsight it was **absolutely the right thing to do**. Eight years later, these statements are still remarkably accurate, and everyone involved has realized tremendous benefits as a result. Given Google's success, it's unsurprising that this type of dual-class governance structure is now somewhat standard among newer technology companies.
- In our experience, success is more likely if you concentrate on the long term. Technology products often require significant investment over many years to fulfill their potential.
- We have **protected Google from outside pressures and the temptation to sacrifice future opportunities to meet short-term demands**. Long-term product investments, like Chrome and YouTube, which now enjoy phenomenal usage, were made with a significant degree of independence.
- We have a structure that prevents outside parties from taking over or unduly influencing our management decisions. However, **day-to-day dilution** from routine equity-based employee compensation and other possible dilution, such as stock-based acquisitions, will likely undermine this dual-class structure and our aspirations for Google over the very long term. We have put our hearts into Google and hope to do so for many more years to come. So we want to ensure that our corporate structure can sustain these efforts and our desire to improve the world.

Google's Class C Share

- Today we announced plans to create a new class of **non-voting capital stock**, which will be listed on NASDAQ. These shares will be distributed via a stock dividend to all existing stockholders: the owner of each existing share will receive one new share of the non-voting stock, giving investors twice the number of shares they had before. It's effectively a two-for-one stock split—something many of our investors have long asked us for. These non-voting shares will be available for corporate uses, like equity-based employee compensation, that might otherwise dilute our governance structure.
- The proposal we announced today is consistent with the governance philosophy we articulated when we took the company public, as well as the trend for newer technology companies to adopt strong dual-class structures. We believe that it will provide great competitive strength—**insulating Google from short-term pressures, whatever the source, for a long time to come**, while also giving us more flexibility around equity grants.

Postscript from David Drummond, Chief Legal Officer, Google Inc.

- the stock dividend we are announcing today will have the basic effect of a two-for-one stock split. Each holder of a share of Class A or Class B common stock will receive one share of the new non-voting Class C capital stock. So after the dividend, a stockholder who currently owns one Class A share with a single vote will continue to own that share plus one Class C share without a vote.
- In addition, Larry, Sergey and Eric have agreed to subject their shares to a Transfer Restriction Agreement. This agreement will **maintain the same link between their voting and economic interests that exists today**, even if they sell some of their non-voting Class C shares. If the founders or Eric wish to sell or transfer their non-voting Class C shares, a “stapling” provision in the agreement requires them to either sell an equal number of Class B shares, or convert an equal number of Class B shares into Class A shares. No other stockholders will be subject to these restrictions upon the transfer or sale of their shares.
- The proposal is subject to the approval of a majority of the voting power of Google’s common stock, voting together as a single class, at our annual meeting on June 21, 2012. Given that Larry, Sergey, and Eric control the majority of voting power and support this proposal, we expect it to pass.

同股同权

- 《公司法》第一百零三条 股东出席股东大会会议，所持每一股份有一表决权。
- 《公司法》第一百二十六条 股份的发行，实行公平、公正的原则，同种类的每一股份应当具有同等权利。
- 《公司法》第一百三十一条 国务院可以对公司发行本法规定以外的其他种类的股份，另行作出规定。

• 2018.09.18

国务院关于推动创新创业高质量发展 打造“双创”升级版的意见

国发〔2018〕32号

各省、自治区、直辖市人民政府，国务院各部委、各直属机构：

创新是引领发展的第一动力，是建设现代化经济体系的战略支撑。近年来，大众创业万众创新持续向更大范围、更高层次和更深程度推进，创新创业与经济社会发展深度融合，对推动新旧动能转换和经济结构升级、扩大就业和改善民生、实现机会公平和社会纵向流动发挥了重要作用，为促进经济增长提供了有力支撑。当前，我国经济已由高速增长阶段转向高质量发展阶段，对推动大众创业万众创新提出了新的更高要求。为深入实施创新驱动发展战略，进一步激发市场活力和社会创造力，现就推动创新创业高质量发展、打造“双创”升级版提出以下意见。

（二十六）拓宽创新创业直接融资渠道。支持发展潜力好但尚未盈利的创新型企业上市或在新三板、区域性股权市场挂牌。推动科技型中小企业和创业投资企业发债融资，稳步扩大创新创业债试点规模，支持符合条件的企业发行“双创”专项债务融资工具。规范发展互联网股权融资，拓宽小微企业和创新创业者的融资渠道。推动完善公司法等法律法规和资本市场相关规则，允许科技企业实行“同股不同权”治理结构。（证监会、发展改革委、科技部、人民银行、财政部、司法部等按职责分工负责）

《上海证券交易所试点创新企业股票或存托凭证上市交易实施办法》 2018.06.15

第一节 具有投票权差异安排红筹公司上市的特别要求

第一条 持有特别投票权股份的股东应当为对红筹公司发展或业务增长等作出重大贡献，并且在公司上市前及上市后持续担任公司董事或者董事会认可的其他职务的人员，或者该等人员实际控制的持股主体。

特别投票权股东在红筹公司中拥有权益的股份合计应当达到公司全部已发行有表决权股份 10%以上。

第二条 红筹公司章程应当规定每份特别投票权股份的投票权数量。

每份普通投票权股份的投票权数量不得为零，每份特别投票权股份的投票权数量不得超过每份普通投票权股份的投票权数量的 20 倍。

Amendments to the Main Board Listing Rules -- 2018.04 HKEX

Chapter 8A

EQUITY SECURITIES

WEIGHTED VOTING RIGHTS

INTRODUCTION

The concept of proportionality between the voting power and equity interest of shareholders, commonly known as the “one-share, one-vote” principle, is an important aspect of investor protection as it helps align controlling shareholders’ interests with those of other shareholders and makes it possible for incumbent management to be removed, if they underperform, by those with the greatest equity interest in an issuer.

Although the Exchange believes that the “one-share, one vote” principle continues to be the optimum method of empowering shareholders and aligning their interests in a company, the Exchange will consider listing applications of companies seeking to deviate from this principle, under the conditions and safeguards set out in this Chapter. Applicants are expected to demonstrate the necessary characteristics of innovation and growth and demonstrate the contribution of their proposed beneficiaries of weighted voting rights to be eligible and suitable for listing with a WVR structure as set out in guidance published on the Exchange website and amended from time-to-time.

Amendments to the Main Board Listing Rules -- 2018.04 HKEX

- The Exchange will consider applications for listing with a WVR structure from new applicants only.
- A new applicant seeking a listing with a WVR structure must satisfy one of the following:
 - (1) a market capitalisation of at least HK\$40,000,000,000 at the time of listing; or
 - (2) a market capitalisation of at least HK\$10,000,000,000 at the time of listing and revenue of at least HK\$1,000,000,000 for the most recent audited financial year.
- Non-WVR shareholders must be entitled to cast at least 10% of the votes that are eligible to be cast on resolutions at the listed issuer's general meetings.
- At listing, any beneficiaries of weighted voting rights must be members of the applicant's board of directors.
- The beneficiaries of weighted voting rights must beneficially own collectively at least 10% of the underlying economic interest in the applicant's total issued share capital at the time of its initial listing.
- The weighted voting rights attached to a beneficiary's shares must cease upon transfer to another person of the beneficial ownership of, or economic interest in, those shares or the control over the voting rights attached to them (through voting proxies or otherwise).

优刻得科技股份有限公司

三、设置特别表决权的发行人特殊公司治理结构

2019年3月17日，发行人召开2019年第一次临时股东大会，表决通过《关于<优刻得科技股份有限公司关于设置特别表决权股份的方案>的议案》，并修改公司章程，设置特别表决权。

根据特别表决权设置安排，发行人共同实际控制人季昕华、莫显峰及华琨持有的A类股份每股拥有的表决权数量为其其他股东（包括本次公开发行对象）所持有的B类股份每股拥有的表决权的5倍。季昕华、莫显峰及华琨对公司的经营管理以及对需要股东大会决议的事项具有绝对控制权。

1、优刻得主营公有云计算服务，是一家典型的科技互联网企业，在创业初期需要巨额的资金投入产品研发，因而不可避免地需要进行多轮直接融资。这就导致优刻得在上市前的股权结构较为分散，创始人股权稀释情况较为明显。在上市之前，优刻得三名创始人合计直接持有发行人26.8347%的股份（低于30%），按照优刻得设计AB股架构时的发行方案计算（不含采用超额配售选择权发行的股票数量），三名创始人上市后合计持有发行人的股份被稀释至约20.12%，若公司后续实施再融资则前述比例将进一步被稀释。在这种情况下，除采用一致行动协议等传统增强公司控制权的手段之外，公司有充分的动力来寻求其他可行的保障措施；

2、优刻得秉持“中立、安全、可信赖”的经营理念，这也是公司能在巨头林立的云计算行业脱颖而出的重要原因。公司控制权稳定对于保障其经营策略（尤其是“中立”理念）不受影响具有十分重要的意义。上市之后，公司股票因挂牌交易而具有高流通性，同时创始人持股比例进一步被稀释，为避免因股权分散而带来的潜在风险（如恶意收购、恶意掣肘等），优刻得需要借助AB股架构提高创始人对商业决策的表决权、以确保公司发展战略得以长久贯彻。

• 来源：junhe.com



XIAOMI CORPORATION

小米集团

(於開曼群島註冊成立以不同投票權控制的有限公司)

厚道的人運氣不會太差。請和我們一起，永遠相信美好的事情即將發生。

雷軍

First firm with WVR in HK

本公司有不同投票權架構，自[編纂]完成當時起生效。根據該架構，本公司股本將分為A類股份及B類股份。對於提呈本公司股東大會的任何決議案，A類股份持有人每股可投10票，而B類股份持有人則每股可投一票，惟就有限保留事項有關的決議案投票除外，在此情況下，每股股份享有一票投票權。

本公司採用不同投票權架構，儘管不同投票權受益人並不擁有本公司股本的大部分經濟利益，但不同投票權受益人可對本公司行使投票控制權。不同投票權受益人目光長遠，實施長期策略，其遠見及領導能使本公司長期受益。

雷軍及林斌是董事會2010年5月首三名董事中的其中兩名。執行董事僅由雷軍及林斌擔任並將一直擔任。本集團發展之初，雷軍及林斌均參與本集團的財務及業務策略和研發。

Are Dual-Class Companies Harmful to Stockholders?

(source: corpgov.law.harvard.edu)

- Historically, technology companies did not adopt a dual-class capital structure. Rather, until Google's 2004 IPO, most dual-class companies were family businesses, media companies seeking to ensure their publications could maintain journalistic editorial independence, or other companies led by a strong group of insiders.
- Dual class firms tend to be more levered and to underperform their single class counterparts, with increased insider cash flow rights increasing firm value and increased insider voting rights reducing firm value (Gompers et al., 2010, RFS).
- The Council of Institutional Investors ("CII") has called upon the NYSE and Nasdaq to adopt a rule requiring all companies going public with dual-class shares to include a "sunset provision", which would convert the company to a single class of stock after a set period of years.
- companies with "unequal voting stocks in aggregate outperformed the market over the period from November 2007 to August 2017." (MSCI, 2018)

Dual Share Class Structure (DSC)

(source: clsbluesky.law.columbia.edu)

- The rationale underlying DCS is that they allow firm founders to protect themselves against a loss of control, ensuring that they can implement a long-term corporate strategy notwithstanding short-term market pressures. But the central question must be asked: To what extent (and for how long) should the law allow the founders to pursue their “idiosyncratic vision” for the DCS corporation?
- What, if anything, should be done about the potential governance failings inherent in DCS structures?

Features of Preferred Stock 优先股

- Dividends
 - Stated dividend must be paid before dividends can be paid to common stockholders.
 - Dividends are not a liability of the firm, and preferred dividends can be deferred indefinitely.
 - Most preferred dividends are cumulative – any missed preferred dividends have to be paid before common dividends can be paid.
 - In the event of liquidation, preferred shareholders will be repaid the par value of the preferred stock.
- Preferred stock generally does not carry voting rights.

Features of Dividends

- Unless a dividend is declared by the board of directors of a corporation, it is not a liability of the corporation
- Dividends are paid out of the corporation's aftertax cash flow.

Debt versus Equity

- Debt

- Not an ownership interest
- Creditors do not have voting rights
- Interest is considered a cost of doing business and is tax deductible
- Creditors have legal recourse if interest or principal payments are missed
- Excess debt can lead to financial distress and bankruptcy

- Equity

- Ownership interest
- Common stockholders vote for the board of directors and other issues
- Dividends are not considered a cost of doing business and are not tax deductible
- Dividends are not a liability of the firm, and stockholders have no legal recourse if dividends are not paid
- An all-equity firm cannot go bankrupt

The Bond Indenture

- Contract between the company and the bondholders that includes:
 - The basic terms of the bonds
 - The total amount of bonds issued
 - A description of property used as security, if applicable
 - Seniority 优先级: senior > junior > subordinated
 - Seniority means the order of repayment in the event of a sale or bankruptcy of the respective institution
 - in the event of default, holders of subordinated debt must give preference to other specified creditors
 - Call provisions 赎回条款
 - A call provision allows the company to repurchase, or “call,” part or all of the bond issue at stated prices over a specific period.
 - The difference between the call price and the stated value is the call premium.
 - deferred call provision, call protected
 - Details of protective covenants 保护性条款
 - A negative covenant limits or prohibits actions that the company might take.
 - A positive covenant specifies an action that the company must take or a condition that the company must abide by.

Callable Bonds - Structure

Amount	US\$100 million
Issue Date	15 September 2006
Maturity	15 September 2016 (10 years)
Coupon	8.00% pa (payable annually)
Call Provision	Callable, subject to 30 days notice, as follows:

Call Date	Call Price
5 years (15 September 2011)	103% of Face Value
6 years (15 September 2012)	102% of Face Value
7 years (15 September 2013)	101% of Face Value
8 years (15 September 2014)	100% of Face Value
9 years (15 September 2015)	100% of Face Value

- The bond is *call protected* for the early period of 5 years.
- The call is exercisable at a premium to the face value of the bond. The initial call premium is 3% of face value, declining at the rate of 1% per annum. This reflects the fact that the value of the callable feature is decreasing with respect to time.

Interest rates consideration

If the interest rates decrease, then the issuer will call the bond and pre-pay the debt. The issuer can re-finance at lower interest rates.

Callable bond = straight (or non-callable) bond plus option

Bond Classifications

- Registered vs. Bearer Forms
 - Registered: the company has a registrar who will record the initial ownership of each bond, as well as any changes in ownership.
 - Bearer: the certificate is the basic evidence of ownership, and the corporation will “pay the bearer.”

Required Yields

- The coupon rate depends on the risk characteristics of the bond when issued.
- Which bonds will have the higher coupon, all else equal?
 - Secured vs. non-secured debt
 - Subordinated debenture versus senior debt
 - A callable bond versus a non-callable bond

Other Bond Types

- Income bonds
 - coupon payments depend on level of corporate income. If earnings are not enough to cover the interest payment, it is not owed.
- Convertible bonds
 - bonds can be converted into shares of common stock at the bondholders discretion
- Put bonds
 - bondholder can force the company to buy the bond back prior to maturity
- There are many other types of provisions that can be added to a bond, and many bonds have several provisions – it is important to recognize how these provisions affect required returns.

Long-Term Syndicated Bank Loans

- Large money-center banks frequently have more demand for loans than they have supply.
- Small regional banks are often in the opposite situation.
- As a result, a larger money center bank may arrange a loan with a firm or country and then sell portions of the loan to a syndicate of other banks.
- A syndicated loan may be publicly traded.
- Syndicated loans are always rated investment grade.

International Bonds

- Eurobonds: bonds denominated in a particular currency and issued simultaneously in the bond markets of several countries
 - An American firm may issue a dollar-denominated bond in a number of foreign countries.
- Foreign bonds: bonds issued in another nation's capital market by a foreign borrower
 - A Canadian firm might issue yen-denominated bonds in Japan.

Risk of International Bonds

- Credit Risk: the potential for default
- Interest Rate Risk: the potential for the value of bonds to decline in response to rising long-term interest rates
- Exchange Rate Risk: the potential for the value of bonds to decline (from the investor's perspective) because the currency denominating the bond depreciates against the home currency of the investor
- Liquidity Risk: the potential for the value of bonds to decline at the time they are for sale because there is not a consistently active market for the bonds

中国企业境外发行债券

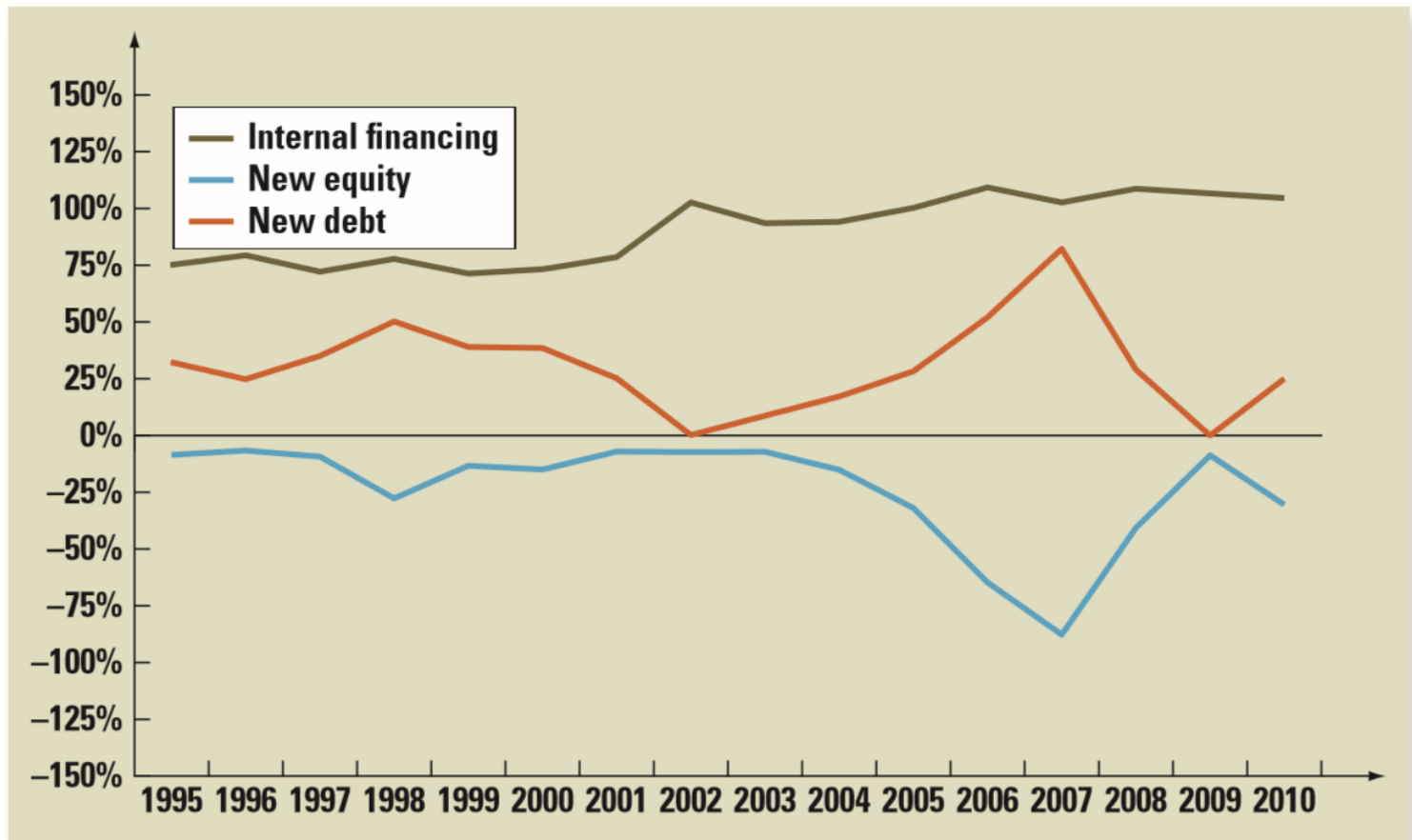
- 根据dealogic的统计, 2016年境内企业共发行258只美元债, 发行规模高达1271.4亿美元, 相比2015年的1075亿美元, 大涨18.3%, 创下自2007年以来的第二高点, 仅次于2014年1400.6亿美元的高峰
 - 自2008年金融危机后, 在多次量化宽松政策刺激下美元流动性过剩, 而人民币进入升值通道。相比国内较高的贷款利率和发债成本, 中资企业纷纷在海外市场积极举债
 - 2015年8月11日, 央行宣布对人民币汇率中间价进行调整, 在“8.11”汇改之后, 企业境外发债的汇率风险突然加大, 对融资成本的影响较大。

Capital curbs push Chinese firms to risky, costly dollar bonds – reuters.com

- Despite the yuan's nearly 7 percent slump against the dollar in 2016, Chinese companies including state-owned Bank of China raised a record \$111 billion in offshore dollar bonds
- The list includes issuers who need dollars to pay for overseas acquisitions and deals but are unable to use their yuan after China tightened its grip on capital outflows last year to support the currency
- Some property firms have also been left with little choice but to raise money offshore as government measures to contain a property bubble have included lending restrictions onshore.
 - Both the Shanghai and Shenzhen stock exchanges have tightened bond issuance rules for real estate firms since October, and regulators have repeatedly urged Chinese lenders to restrict property lending.
 - Chinese property developers have \$7.9 billion in loans falling due in 2017, according to Thomson Reuters data, which could push more into offshore markets if they need refinancing

Total financing for U.S. businesses

- Breaks down total financing for U.S. businesses into internal financing, financing through new equity, and financing through new debt for each year from 1995 to 2010



SOURCE: Board of Governors of the Federal Reserve System. "Flow of Funds Accounts of the United States." Federal Reserve Statistical Release. June 9, 2011, <<http://www.federalreserve.gov/releases/zl/20110609>.

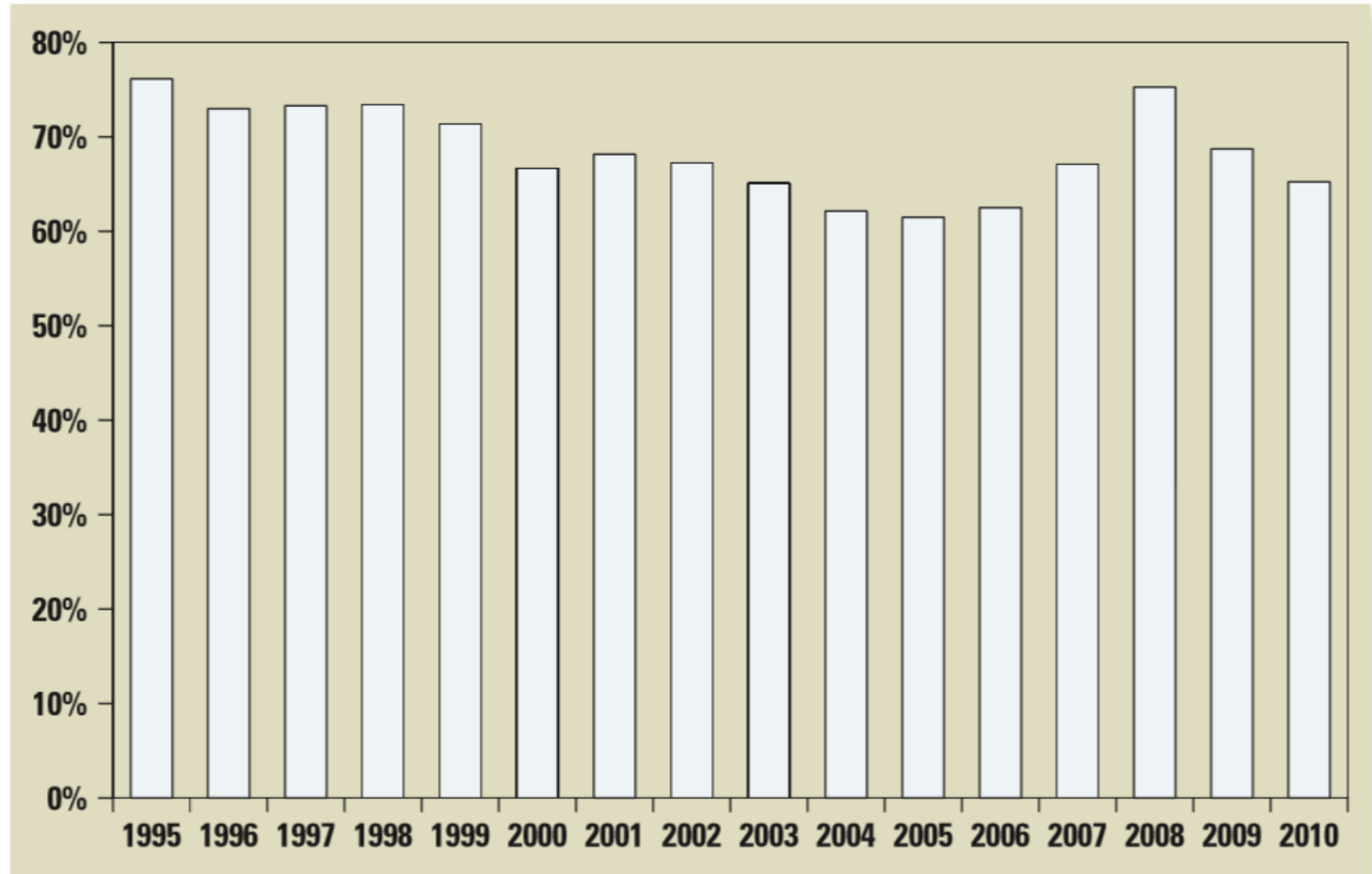
Total financing for U.S. businesses

- Internally generated cash flow has been the dominant source of financing.
- This dominance has increased over the sample period
- Net stock buybacks appear to have accelerated from 2002 to 2007. It is argued that firms were flush with cash during this time and found stock repurchases more attractive than dividend payments. However, the economic problems beginning in 2008 greatly reduced the dollar amount of stock repurchases.

Recent Trends in Capital Structure

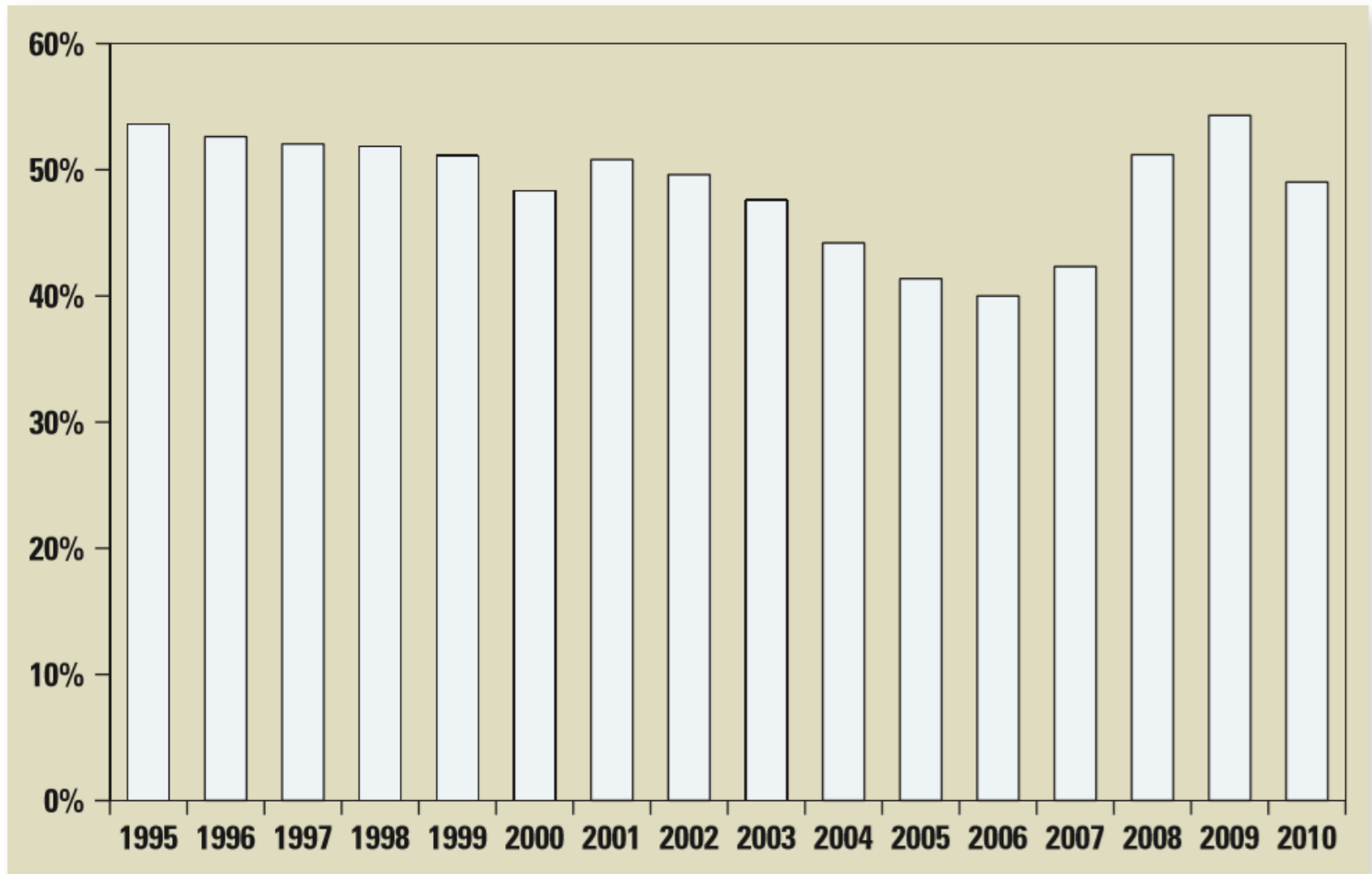
- Which are best: book or market values?
 - In general, financial economists prefer market values.
 - However, many corporate treasurers may find book values more appealing due to the volatility of market values.
- Whether we use book or market values, debt ratios for U.S. non-financial firms have been below 50 percent of total financing.

Total Debt as a Percentage of the Book Value of Equity for U.S. Nonfarm, Nonfinancial Firms from 1995 to 2010



SOURCE: Board of Governors of the Federal Reserve System. "Flow of Funds Accounts of the United States." Federal Reserve Statistical Release. June 9, 2011, <<http://www.federalreserve.gov/releases/z1/20110609>>.

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Quick Quiz

- Describe the basic characteristics of common and preferred stock.
- Differentiate between cumulative voting and straight voting.
- Identify the rights of shareholders and bondholders.
- How would the following characteristics impact the yield on a bond:
 - Callable