1.0 Introduction

We Work (officially The We Company, WW from here on) is an American commercial real estate company founded in 2010 by Adam Neumann (AN), Rebekah Neumann and Miguel McKelvey. WW provides shared workspaces for start-ups and other enterprises by leasing an office facility long-term, renovating it and subleasing smaller desks and offices short-term (Brown, 2019). WW counts more than 5,000 employees in over 86 cities in 32 countries (appx 1).

In January 2019, WW announced its intentions of going public within 2019 with a valuation of $47 b. Disclosures of WW's S-1 filing of June 2019 showed that the firm had been operating with enormous net losses and WW has since been "*besieged with criticism over its governance, business model and ability to turn a profit"*, which caused the valuation to drop to approximately $10 b. (Brown, 2019). The effects of this staggering drop in valuation and criticism of WW' corporate governance, caused WW to withdraw its IPO, AN to resign as CEO and give up his majority of voting rights "*in the best interest of the company"*, partly from a pressuring board (WW, 2019).

This paper seeks to discuss and reflect upon *the corporate governance structures that caused the valuation of WW to drop this drastically, what measures WW has taken to correct this, and what adequate measures should be taken to turn this development from a shareholder's view?*

For the analysis, this paper will examine the ownership and board structure and potential associated agency conflicts, through relevant corporate governance theories, notions and frameworks, as tools to explain the governance and behavior of WW.

2.0 Ownership structure and governance mechanisms

WW is privately held and operates under the Anglo-American corporate governance structure; characterized by strong shareholder value norms, strong managerial power and one-tier boards (Aluchna, 2019). WW follows a triple class share structure, in which its shares are divided into class A shares (one vote per share), and class B and C shares (20 votes per share). The four largest shareholders (holding more than 5%) are all active institutional investors, namely; WE Holdings LLC, Benchmark, J. P. Morgan, and Softbank (SB) (appx 2), which makes the ownership concentrated. SB is an institutional investor through its Vision Fund, devoted to late-stage startup tech-investments (Crunchbase, 2019) and is said to be *the most powerful investor in tech right now* (Leskin et al., 2019). Although SB has provided approximately $10 b. of the $12.8 b. of external investments, it only holds the majority of class A shares, while the class B and C shares are almost exclusively held by AN (SEC, 2019). The imbalance between invested capital and voting rights is thus a result of the control enhancing mechanism of voting differentiation, which has allowed AN to raise external capital while remaining the controlling investor and majority-holder of the voting rights. AN's monitoring role is emphasized by his functions as CEO and chairman of the board until recently (CEO-duality) (Nasdaq, 2019). AN's monitoring and decision making has numerous times been questioned; i.e. from lawsuits of gender and age discrimination from two former executives (Morris et al., 2019), by serving high-priced liquor on daily basis during office hours, hosting lavish parties and events for all employees, and flying with private jets (Morris, 2019), while WW has performed consistent deficits as large as its revenue streams, resulting in a negative equity of $2.3 b. in 2019 (appx 3). This agency problem in terms of managerial misuse of resources and deviation from the shareholder value maximization principle angered minority shareholders, as they were incapable of intervening due to AN's prior CEO-duality and majority of voting rights. Thus, this agency type 2 problem was only magnified by the voting differentiation mechanisms.

Through AN's monitoring role, he has been able to lease properties he owns privately back to WW for $20.9 m. and sell the trademark rights to the word "We" from another entity owned by himself for $5.9 m.; a deal which he had to lay down due to bad media coverage (Gilbert, 2019). Furthermore, the S-1 filing disclosed that Rebekah Neumann was responsible for appointing AN's successor, in case he became incapacitated within 10 years of the company's IPO; this proposal was later scrapped (Wolverton, 2019).

These non-value maximizing activities through tunneling, purely to AN's private benefit, are further examples of how AN's strong monitor role has made him capable of acting against the minority shareholders will and the value maximization principle.

Prior to the S-1 filing, AN stated that *he needed to have the highest valuation possible* (Neate, 2019), which aligns with his personal ambitions of becoming the world's first trillionaire. This is however contradictory to the various non-value maximizing activities, which he has engaged in. The reasoning could be his role as controlling investor, which is argued to lead to non-value maximizing activities (Morck et al. 1998).

AN does not receive any remuneration from his position as CEO or chairman and is thus compensated through his holdings of stocks (Brown, 2019). This could be seen as an expression of him functioning primarily as controlling shareholder (principal), as he has not received any compensation for his agent roles as CEO and chairman.

The conspicuous imbalance between invested capital and voting rights among shareholders is an effect of the control enhancing mechanism, which has rendered it possible for AN to remain the voting majority, while incorporating institutional investors. Besides from providing capital, these institutional investors, such as Benchmark and SB, provide deep insights and experiences of the tech-industry from their other holdings. Furthermore, institutional investors with multiple long-term shareholdings in the same industry have proven to lead to better monitoring, as they have prior experience (Kang et al., 2019). However, as these shareholders held a minority of voting rights, it is arguable that the positive long-term governance effects of institutional investors were limited by this imbalance; Benchmark and SB held multiple shareholdings in other tech start-ups, which they formally were incapable of leveraging in WW, as they collectively held the minority of the voting rights until recently, where AN's voting rights were reduced severely (Bort, 2019).

Thus, until recently, any collective action from minority shareholders were rather impossible due to AN holding more than 50% of the voting rights. Hence, the severe residual losses that WW suffered related to its unsuccessful IPO left the minority shareholders with no other options than re-signing themselves to this loss or divest at a much lower valuation, while pressuring for AN's resignation as CEO (Ibid).

3.0 Board structure, monitoring and dependence

WW is constituted of a one-tier board structure, which until recently included 7 members with a majority of non-executives (appx 4), which is rather normal given its size and Anglo-American constellation. All board members were either shareholders or representatives of the shareholders through executive roles (appx 4). Thus, all members are dependent outsiders, as they hold or represent equity; with exemption of AN, who until recently functioned as a dependent insider through his CEO-duality. Although CEO-duality is a common practice of the Anglo-American governance structure, it arguably weakens the board's ability to monitor (Thomsen et al. 2012). Moreover, the significance and function of the board can be questioned, as AN was capable of outruling any suggestion from the board and outvote any board member due to his majority of votes (Small, 2019). Thus, the board held no comparative advantages in monitoring to AN as controlling investor.

After WW's S-1 filing, AN's votes per share were first reduced from 20 to 10 and have now been reduced to 3 votes per share, consequently stripping away his voting majority (Bort, 2019). Furthermore, his resignation as CEO has eliminated the CEO-duality, as the two executives Sebastian Gunningham and Artie Minson will function as intermediate co-CEOs. The elimination of CEO-duality can arguable pave its way to mitigate the related agency type 2 problems, as AN's monitoring role as shareholder has also been limited.

WW has recently stated that *there is no search for another chief executive either underway or planned* (Gelles et al., 2019), which suggests that the current CEO-constellation is permanent; thus, the board now consists entirely of non-executive members, however, still with AN as non-executive chairman of the board.

The very low significance and performance of the board consisting of dependent members is in alignment with the general notion that dependent boards underperform compared to boards comprised of a majority of independent outsiders, as independent board members are better at monitoring due to greater objectiveness (Rashid, 2018). In its S-1 filing, WW claims the majority of its board members to be independent, here among for its suggestions of an establishment of an audit-, and compensation and nominating committee (SEC, 2019). As all board members hold or represent material stake, they per definition cannot classify as independent (Investopedia, 2019) and it seems fair to argue that WW has only been able to suppress this issue until now, due to moderated independency legislation for firms where 1 shareholder holds the voting majority rights (Reuters, 2019). With AN's limited voting rights, the legal framework for WW's structure changes, which consequently will coerce WW to comply with a majority of independent board members (Amade, 2019).

The fact that none of the board members received any compensation in 2018 emphasizes the little importance of the board's decision making, but also the value maximization interest of the board members as shareholders. Moreover, the board members dual role as directors and shareholder representatives leads one to question why no minority shareholder has pushed for governance changes, as they from their board positions knew about the financial challenges and monitoring issues within WW; especially SB's disregard is remarkable, as it had by far the most invested capital at stake and engaged itself in limited voting.

Prior to the S-1 filing, WW's board consisted purely of men aged between 40 and 73, all with material interests, and 6/7 ≈ 86% being Caucasian (appx 5), which reflects a very low degree of diversity. WW recently introduced Frances Frei to the board, who, besides being the first woman of the board, is the first board member who does not hold or represent equity (appx 5). Frei had since March 2019 consulted WW on HR matters, which adds her to the list of dependent board members. Frei has previous experience from other tech start-ups, where one of her main focuses was to close diversity gaps (Todd, 2019). Frei's incorporation in the board seems not only to have the purpose of accommodating expected gender quotes (Mishra et al., 2019), but to leverage on knowledge and experience from the tech industry. Furthermore, women in boards have shown to be less dependent than men and thus better at monitoring, which WW arguably needs (Ariglo, 2018).

4.0 Recommendation of future corporate governance structure

The primary failures of WW's governance structure leading to an extensive drop of valuation and withdrawal of IPO have been analyzed to primarily being type 2 agency costs of a controlling investor, as well as inefficiency and dependency of the board. Although WW has already taken some correct measures by pressuring AN to resign as CEO, degrading his voting per share, and introducing a more diverse and independent board member, the below further actions are recommended.

Firstly, the imbalance between voting per share and actual invested capital has led to agency type 2 problems in terms of a controlling investor with a strong monitoring role. This could be mitigated by a conversion from WW's current triple class voting share system to an either two- or one class voting share system, where invested capital is reflected more proportionally in voting shares. An increasing number of dual-class companies are choosing to go public with sunset provisions incorporated into their charters (CII, 2019), which allows the voting rights to converge gradually through a fixed time period, and thus create transparency in voting rights and emphasize the long term incentive of investment for institutional investors. Furthermore, a more balanced voting structure will make minority investors capable of performing collective action if ever deemed needed.

Secondly, the present restructuring of voting rights puts not only a legal pressure on WW to comply with a more independent and diverse board, but the newly elimination of CEO-duality assigns the board with greater monitoring power and expectations for greater performance. For this, it is crucial that WW continues its trend of incorporating more diverse and less dependent boards members, while the current strongly dependent board members should be reevaluated, as they have proved ineffective and incapable of monitoring WW in shareholder interests, despite holding or representing material stake themselves. A more diverse and independent board would lead to greater efficiency and objectiveness in monitoring; however, a such board would require far higher compensation than the existing, which will increase transaction costs. In order to oversee the decisions and independency of the board, an oversight committee could be established.

This emphasis on more stringent roles between shareholders, the board and management, will presumably increase agency costs, yet limit the type 2 agency problems that caused the valuation to contract to less than a third. With the corporate governance measures already executed together with the measures suggested in this paper, it would be interesting to analyze, if WW could recover from its failures and elevate the market value up to its initial level or beyond.

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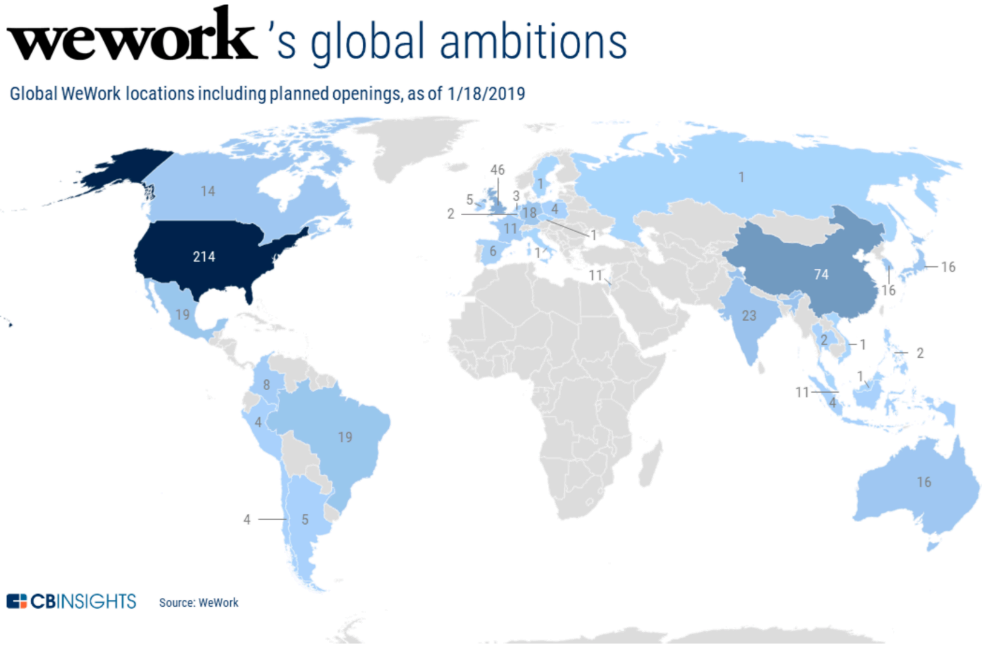
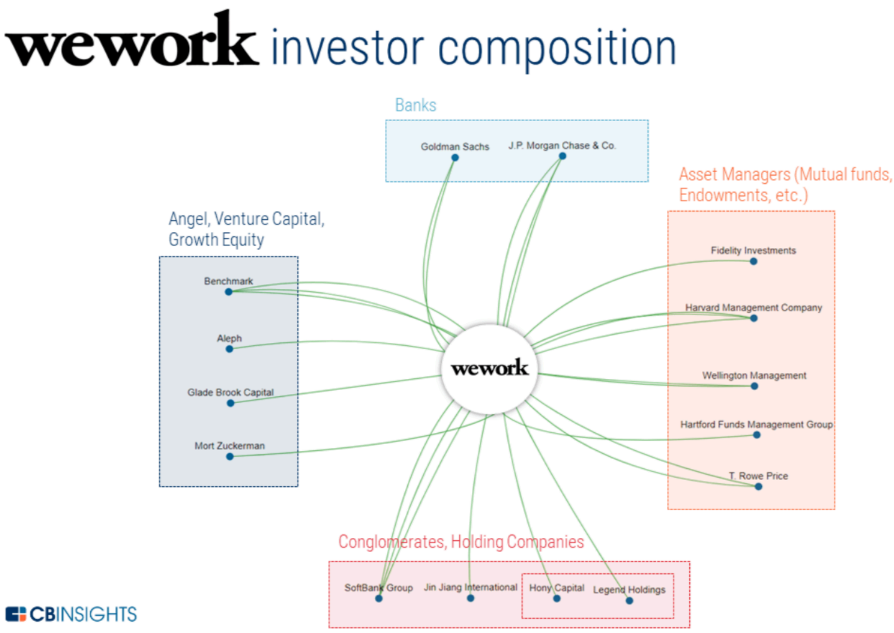
6.0 Appendices
Appendix 1: Overview of WW's global presence



CB Insights, 2019, *WeWork's $47 Billion Dream: The Lavishly Funded Startup That Could Disrupt Commercial Real Estate,* CB Insigths

Appendix 2: WW's investor composition



CB Insights, 2019, *WeWork's $47 Billion Dream: The Lavishly Funded Startup That Could Disrupt Commercial Real Estate,* CB Insigths

Appendix 3: WW's financials statement and balance (retrieved from S-1 filing)

The information presented below should be read in conjunction with the information under "Management's Discussion and Analysis of Financial Condition and Results of Operations" and the consolidated financial statements and related notes appearing elsewhere in this prospectus.

(Amounts in thousands, except share and per share data)	Year Ended December 31, 2016	Year Ended December 31, 2017	Year Ended December 31, 2018	Six Months Ended June 30, 2018	Six Months Ended June 30, 2019
Consolidated statement of operations information:					
Revenue	$ 436,099	$ 886,004	$ 1,821,751	$ 763,771	$ 1,535,420
Expenses:					
Location operating expenses—cost of revenue (1)	433,167	814,782	1,521,129	635,968	1,232,941
Other operating expenses—cost of revenue (2)	—	1,677	106,788	42,024	81,189
Pre-opening location expenses	115,749	131,324	357,831	156,983	255,133
Sales and marketing expenses	43,428	143,424	378,729	139,889	320,046
Growth and new market development expenses (3)	35,731	109,719	477,273	174,091	369,727
General and administrative expenses (4)	115,346	454,020	357,486	155,257	389,910
Depreciation and amortization	88,952	162,892	313,514	137,418	255,924
Total expenses	832,373	1,817,838	3,512,750	1,441,630	2,904,870
Loss from operations	(396,274)	(931,834)	(1,690,999)	(677,859)	(1,369,450)
Interest and other income (expense), net	(33,400)	(7,387)	(237,270)	(46,406)	469,915
Pre-tax loss	(429,674)	(939,221)	(1,928,269)	(724,265)	(899,535)
Income tax benefit (provision)	(16)	5,727	850	1,373	(5,117)
Net loss	(429,690)	(933,494)	(1,927,419)	(722,892)	(904,652)
Net loss attributable to noncontrolling interests	—	49,500	316,627	94,762	214,976
Net loss attributable to WeWork Companies Inc.	$ (429,690)	$ (883,994)	$ (1,610,792)	$ (628,130)	$ (689,676)
Net loss per share attributable to Class A and Class B common stockholders: (5)					
Basic	$ (2.66)	$ (5.54)	$ (9.87)	$ (3.87)	$ (4.15)
Diluted	$ (2.66)	$ (5.54)	$ (9.87)	$ (3.87)	$ (4.15)
Weighted-average shares used to compute net loss per share attributable to Class A and Class B common stockholders, basic and diluted	161,324,940	159,689,116	163,148,918	162,482,366	166,301,575
Pro forma net loss per share attributable to Class A and Class B common stockholders: (5)					
Basic			$ (4.41)		$ (3.20)
Diluted			$ (4.41)		$ (3.20)
Weighted-average shares used to compute pro forma net loss per share attributable to Class A and Class B common stockholders, basic and diluted			338,368,587		365,154,863

(1) Exclusive of depreciation and amortization shown separately on the depreciation and amortization line in the amount of $84.0 million, $154.1 million and $281.5 million for the years ended December 31, 2016, 2017 and 2018, respectively, and $123.7 million and $230.0 million for the six months ended June 30, 2018 and 2019, respectively.

(Amounts in thousands)	As of December 31, 2017	As of December 31, 2018	As of June 30, 2019
Consolidated balance sheet information:			
Cash and cash equivalents	$ 2,020,805	$ 1,744,209	$ 2,473,070
Total current assets	2,427,096	2,464,078	3,032,323
Property and equipment, net	2,337,092	4,368,772	6,729,427
Total assets	5,364,072	8,644,916	27,047,235
Total non-current liabilities	1,755,924	4,675,071	22,038,597
Total liabilities	2,406,511	6,284,159	24,641,746
Total convertible preferred stock included as temporary equity	3,405,435	3,498,696	3,591,086
Total redeemable noncontrolling interests included as temporary equity	854,577	1,320,637	1,113,807
Total equity (deficit)	(1,302,451)	(2,458,576)	(2,299,404)

United States Security and Exchange Commission (SEC), *Form S-1 Registration Statement; The We Comapny*, 2019, page 64

Appendix 4: Overview of WW's board and further clarification

Board members of The We Company, June 2019, latest S-1 filing								
Name	**Relation**	**Committee** *(suggestion in IPO)*	**Gender**	**Age**	**Race**	**Share classes** Class A	Class B	Class B
Adam Neumann	Largest shareholder, Chairman and CEO of WW	-	Male	40	Caucasian	2.428.730	112.507.371	943.848
Bruce Dunlevie	Vice-chairman of WW, Founding partner of Benchmark	Compensation and Nominating Committee	Male	62	Caucasian	32.645.314	-	-
Ronald Fisher	Vice-chairman of Softbank	-	Male	71	Caucasian	-	-	-
Lewis Frankfort	Flywheel Sports chairman (shareholder)	Audit Committee	Male	73	Caucasian	1.247.033	852.309	-
M. Steven Langman	ARK chairman (private equity jointly owned with WW)	Compensation and Nominating Committee	Male	57	Caucasian	27.056	-	-
Mark Schwartz	Former SoftBank director of board	Audit Committee	Male	65	Caucasian	-	-	-
John Zhao	Hony Capital CEO and chairman	-	Male	56	Asian	-	-	-
Francis Frei	*Former HR consultant in WW, new board member*	-	*Female*	*56*	*Caucasian*	-	-	-
Total among directors						36.431.010	114.821.543	943.848

United States Security and Exchange Commission (SEC), *Form S-1 Registration Statement; The We Comapny*, 2019, page 187.