

Dear Clients and Friends,

Re: **Survey On Legal Terms of Venture Capital Transactions – First Half of 2007**

We are pleased to present the results of our survey for the first half of 2007, analyzing the legal terms commonly used in venture capital financings in Israeli and “Israeli related” hi-tech companies and comparing these terms to those commonly used in the Silicon Valley, United States.

This survey is presented this time on a six-month basis and provides an analysis of the legal terms of venture capital transactions closed during the first half of 2007, as compared with the results covered by our earlier surveys.

In preparing our survey for the first half of 2007, we examined the terms of 50 venture capital investment transactions of Israeli and “Israeli-related” hi-tech companies, each for an investment amount in excess of US \$500,000. The survey relates only to equity transactions in which venture capital funds participated, and not bridge loan transactions or investments made solely by “angels”.

**The number of surveyed Israeli transactions constitutes approximately 60% of the relevant transactions that closed during the covered period and that met our qualifying criteria, and includes a majority of the more significant transactions in terms of funds invested.**

As always, this survey was produced in coordination with Fenwick & West LLP., a leading Silicon Valley law firm. Our cooperation with Fenwick & West in producing this survey has enabled us also to present to you the results of their corresponding survey covering Silicon Valley venture capital investment transactions during the covered period, and, thus, to draw an interesting comparison between the terms commonly used in Israel and those commonly used in the Silicon Valley.

**Conclusions:**

The results of this survey also indicate that the vast majority of investment rounds continue to be “Up-rounds” in comparison with the previous investment rounds.

The results of this survey indicated a high and interesting increase in the number of first round (“Series A”) investments. The number of first round investments has risen to 46% in the first half of 2007, compared to approximately 35% in the second half of 2006 and above twofold compared to the results of the survey for the corresponding period of last year.

The significance of this finding is that more new start-up companies have been financed by venture capital funds and have in fact commenced extensive R&D activities. This finding is also a positive indicator of the willingness of venture capital funds during this period to take a higher risk which is inherent in first round investments!

Another interesting finding in this survey is the increase in the number of investment rounds in which the venture capital funds placed a cap on their participation right; According to the results of

this survey more than half of the investment rounds surveyed included a cap on the participation right (only 47% did not include a cap), compared to 43% in the results of the survey for the corresponding period of last year (in which 57% did not include a cap).

An additional expression of the optimistic atmosphere in the venture capital industry in Israel is reflected by the continued decrease in the usage of the "Full Ratchet" formula. Only 14% of the investment rounds surveyed included the "Full Ratchet" formula, the lowest rate since we started publishing the results of the survey. Thus, the Israeli venture capital industry is following the trend in the Silicon Valley, in which the rates of usage of the Full Ratchet were at all the periods we surveyed significantly lower and according to the results of this survey currently stand at a mere 5%.

We hope that you find this survey useful and interesting. **To be placed on an email list for future editions of this survey, please go to [www.shibolet.com](http://www.shibolet.com).**

**To receive a copy of the Fenwick & West Venture Capital Survey summarizing venture capital terms in the Silicon Valley, please go to [www.fenwick.com/vctrends.htm](http://www.fenwick.com/vctrends.htm).**

**For additional information about this report, please contact Mr. Lior Aviram at [L.Aviram@shibolet.com](mailto:L.Aviram@shibolet.com) or Ms. Limor Peled at [L.Peled@shibolet.com](mailto:L.Peled@shibolet.com), Tel: +972 (3) 7778333.**



**SHIBOLETH**  
**in cooperation with**  
**FENWICK & WEST LLP**

**Trends in Legal Terms in Venture Financings**  
**in Israel**  
**(First Half of 2007)**

- **Background** – We have analyzed the terms of venture financings for 50 Israeli and Israeli-related technology companies that reported raising money in the first half of 2007. Our survey does not include financing rounds of less than US \$500,000. The tables below also show, for purposes of comparison, the results of our previously released surveys.
- **Financing Round** – The financings closed in the first half of 2007 and in the periods covered by our previous surveys may be broken down by types of round, or series, as follows:

Series	H1'07	H2'06	H1'06	H2'05	H1'05	H2'04	H1'04	H2'03
A	46%	35%	21%	34%	28%	35%	20%	22%
B	18%	27%	28%	27%	22%	21%	36%	30%
C	16%	24%	19%	12%	26%	25%	26%	22%
D	8%	7%	19%	17%	9%	11%	8%	19%
E and higher	12%	7%	13%	10%	15%	8%	10%	7%

- **Price Change** – The financings closed in the first half of 2007 and in the periods covered by our previous surveys may be broken down by the directions of the change in price as compared to each company's respective previous round, as follows:

Price Change	H1'07	H2'06	H1'06	H2'05	H1'05	H2'04	H1'04	H2'03
Down	31%	32%	26%	30%	19%	43%	42%	62%
Flat	4%	6%	9%	4%	16%	12%	3%	28%
Up	65%	62%	65%	66%	65%	45%	55%	10%

The percentages of financing transactions that were down-rounds, broken down by series, were as follows:

Series	H1'07	H2'06	H1'06	H2'05	H1'05	H2'04	H1'04	H2'03
B	44%	7%	31%	36%	0%	25%	24%	73%
C	25%	54%	27%	20%	33%	56%	62%	55%
D	25%	25%	18%	29%	25%	43%	0%	56%
E and higher	17%	50%	14%	25%	14%	40%	80%	50%

- **Liquidation Preference** – Senior liquidation preferences were used in the following percentages of financings:

H1'07	H2'06	H1'06	H2'05	H1'05	H2'04	H1'04	H2'03
63%	72%	80%	81%	76%	80%	78%	82%

The percentages of financing transactions with senior liquidation preference, broken down by series, were as follows:

Series	H1'07	H2'06	H1'06	H2'05	H1'05	H2'04	H1'04	H2'03
B	56%	67%	75%	73%	80%	85%	61%	82%
C	50%	77%	73%	100%	75%	75%	92%	75%
D	75%	75%	91%	71%	75%	71%	75%	82%
E and higher	83%	75%	86%	100%	71%	100%	100%	100%

- **Multiple-Based Liquidation Preferences** - The percentage of financing transactions with senior liquidation preferences that included multiple preferences was as follows:

H1'07	H2'06	H1'06	H2'05	H1'05	H2'04	H1'04	H2'03
6%	4%	9%	18%	16%	24%	23%	44%

Of the financings in which there were senior liquidation preferences based on multiples, the range of the multiples may be broken down as follows:

Range of multiples	H1'07	H2'06	H1'06	H2'05	H1'05	H2'04	H1'04	H2'03
>1x- 2x	100%	100%	100%	75%	25%	88%	100%	88%
>2x - 3x	0%	0%	0%	0%	75%	0%	0%	6%
> 3x	0%	0%	0%	25%	0%	12%	0%	6%

- **Participation in Liquidation** - The percentage of transactions, out of the total number of financing transactions, which included participation rights in liquidation were as follows:

H1'07	H2'06	H1'06	H2'05	H1'05	H2'04	H1'04	H2'03
84%	89%	93%	85%	91%	79%	90%	91%

Out of those financing transactions the terms of which provided for participation, the percentages of those in which no cap was placed on the investors right to participation were as follows:

H1'07	H2'06	H1'06	H2'05	H1'05	H2'04	H1'04	H2'03
47%	51%	57%	57%	69%	60%	67%	59%

- **Cumulative Dividends and/or Accrued Interest as Part of the Liquidation Preference** – Cumulative dividends and/or accrued interest constituted part of the liquidation preferences in the following percentages of financings:

H1'07	H2'06	H1'06	H2'05	H1'05	H2'04	H1'04	H2'03
58%	56%	56%	68%	78%	52%	62%	54%

- **Anti-dilution Provisions** - The use of anti-dilution provisions in the financings which took place in the first half of 2007 and in the periods covered by our previous surveys may be broken down as follows:

Type of Provision	H1'07	H2'06	H1'06	H2'05	H1'05	H2'04	H1'04	H2'03
Full Ratchet	14%	18%	28%	39%	31%	30%	28%	38%
Weighted Average	78%	82%	65%	61%	65%	64%	66%	55%
None	8%	0%	7%	0%	4%	6%	6%	7%

- **Pay-to-Play Provisions** - The use of pay-to-play provisions in the financings which took place in the first half of 2007 and in the periods covered by our previous surveys may be broken down as follows:

H1'07	H2'06	H1'06	H2'05	H1'05	H2'04	H1'04	H2'03
8%	2%	9%	15%	0%	13%	14%	9%

- **Redemption** – The percentage of transactions in the first half of 2007 and the periods covered by our previous surveys, out of the total number of financings in each respective period, in which the terms provided for mandatory redemption or redemption at the option of the venture capitalist was as follows:

H1'07	H2'06	H1'06	H2'05	H1'05	H2'04	H1'04	H2'03
8%	18%	14%	20%	17%	21%	26%	27%

- **Corporate Reorganizations** – The percentage of post-Series A financing transactions in the first half of 2007 and the periods covered by our previous surveys, out of the total number of financings in each respective period, which involved the conversion of senior securities into more junior securities was as follows:

H1'07	H2'06	H1'06	H2'05	H1'05	H2'04	H1'04	H2'03
4%	2%	2%	2%	7%	2%	10%	14%

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FENWICK & WEST LLP

SHIBOLET & CO.  
ADVOCATES & NOTARIES

**FENWICK & WEST LLP  
SHIBOLETH**

**Analysis of Legal Terms of Venture Financings  
of Israeli Companies  
and a Comparison of Those Terms with the Terms of Venture Financings  
in the Silicon Valley  
(First Half of 2007)**

- **Background** – We have analyzed the terms of venture financings for 50 Israeli based/related technology companies that reported raising at least \$500,000 in the first half of 2007 , and compared those terms to the terms of venture financings for 243 technology companies headquartered in the Silicon Valley (the San Francisco Bay Area) that reported raising money in the same period.
- **Financing Round** – The Israeli financings may be broken down according to type of round as follows:
  - Series A –46% (compared to 16% in the Silicon Valley)
  - Series B – 18% (compared to 36% in the Silicon Valley)
  - Series C – 16% (compared to 23% in the Silicon Valley)
  - Series D – 8% (compared to 15% in the Silicon Valley)
  - Series E and higher – 12% (compared to 10% in the Silicon Valley)
- **Price Change** – The financings during the first half of 2007 may be broken down by the directions of the change in price as compared to the each company’s respective previous round, as follows:

Price Change	Israel	Silicon Valley
Down	31%	10%
Flat	4%	10%
Up	65%	80%

The percentages of financing transactions that were down-rounds, broken down by series, were as follows:

Series	Israel	Silicon Valley
B	44%	6%
C	25%	7%
D	25%	11%
E and higher	17%	32%

- **Liquidation Preference** – Senior liquidation preferences were used in the following percentages of post-Series A financings:

Israel	Silicon Valley
63%	44%

The percentages of financing transactions senior liquidation preference, broken down by series, were as follows:

Series	Israel	Silicon Valley
B	56%	38%
C	50%	33%
D	75%	59%
E and higher	83%	68%

- **Multiple-Based Liquidation Preference** – The percentages of financing transactions with senior liquidation preferences that included multiple preferences was as follows:

Israel	Silicon Valley
6%	14%

Of the financings in which there were senior liquidation preferences based on multiples, the range of the multiples may be broken down as follows:

Range of Multiples	Israel	Silicon Valley
>1x - 2x	100%	85%
>2x - 3x	0%	15%
>3x	0%	0%

- **Participation in Liquidation** – The percentage of transactions, out of the total number of financing transactions, that provided for participation rights in liquidation were as follows:

Israel	Silicon Valley
84%	53%

Out of those financing transactions the terms of which provided for participation, the percentages of those in which no cap was placed on the investors right to participation were as follows:

Israel	Silicon Valley
47%	53%

- **Cumulative Dividends/Interest Accrual** – Cumulative dividends or interest accruals (which is an Israeli concept similar to cumulative dividends) constituted part of the liquidation preferences under the terms of the following percentages of financings:

Israel	Silicon Valley
58%	6%

- **Anti-dilution Provisions** – The use of anti-dilution provisions in the financings were as follows:

Type of Provision	Israel	Silicon Valley
Full Ratchet	14%	5%
Weighted Average	78%	93%
None	8	2%

- **Pay-to-Play Provisions** – The use of pay-to-play provisions in the financings was as follows:

Israel	Silicon Valley
8%	9%

- **Redemption** – The percentages of financings providing for either mandatory redemption or redemption at the option of the venture capitalist were as follows:

Israel	Silicon Valley
8%	24%

- **Corporate Reorganizations** – The percentages of post-Series A financings involving a corporate reorganization (conversion of senior securities) were as follows:

Israel	Silicon Valley
4%	6%

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