

Dear Clients and Friends,

Re: **Survey on Legal Terms of Venture Capital Transactions – For the Year 2013**

We are pleased to present the results of our survey for the year 2013, which analyzes legal terms of venture capital (VC) investments in Israeli and "Israeli related" hi-tech companies, and comparing these terms to those prevailing in Silicon Valley, United States.

As always, this survey was produced in coordination with Fenwick & West LLP, one of the leading Silicon Valley law firms. Our cooperation with Fenwick & West in producing this survey enables us to draw interesting comparisons, using the same tools and terminology, between the terms commonly practiced in Israel and those commonly practiced in the Silicon Valley.

Conclusions:

The results of the survey demonstrated an unprecedented year of optimism, reflected by the improvement of investment conditions in favor of the high-tech companies.

In the first and important parameter of the rate of first round financing transactions, the survey demonstrated that their portion was the highest from among the investment transactions made. This rate will support the creation of a greater number of high-tech companies in the industry at the end of the day, after the natural filtration of the subsequent stages.

Additionally, the rate of the late financing rounds (rounds E and onward) increased as well, and reached a rate of 13% of the rounds surveyed, compared to 5% in the previous year. This finding indicates that the high-tech industry is producing good companies that are maturing and continuing to receive funding even in the later stages and are not being shutdown in the interim.

The optimism is also reflected in the terms of the transactions, - we see this in the amount of 'up rounds' which reached a climax this year and increased to 80%! This rate is the highest rate observed in the surveys we have carried out since 2008!

Moreover, examination of down rounds demonstrated that most of them took place in companies that were raising funds in later rounds (E and onward), which can be mainly attributed to that fact that these are companies that have been on the road too long and probably missed their time.

The rate of transactions with accrued interest on the investment amount for liquidation preference in distributions (whether as interest or as accumulated dividends that is distributed in cases of "exit") was lower this year compared to previous years - 40% as opposed to 48% in the years of 2012 and 2011.

From the comparative survey of the terms prevailing in Silicon Valley, it appears that the above trends are similar, however it is significant to note that the situation reflected in Israel is even better than that of Silicon Valley – there too the rate of transactions of first round financing was the highest, although less than in Israel (24% there as opposed to 37% here) and there too, the portion of up rounds continued to remain the highest, although it is less than in Israel (69% there as opposed to 80% here).

Although the involvement of Israeli VC funds in financing rounds continued to diminish in favor of foreign funds, the prevailing conditions used in financing rounds of Israeli companies – the rate of the use of Senior Liquidation Preference; the rate of the use of accrued interest on the investment amount for the purpose of preference in distributions; and the rate of the use of participation rights (the right to participate in distributions of the remainder following the distribution of the liquidation preference amount) – continued to remain the practice of the domestic industry and have not approached the liberalism practiced towards entrepreneurs in Silicon Valley, as reflected in the comparative survey.

The news of the survey this year is that in almost all parameters reviewed, there is an improvement for the benefit of the hi-tech companies, which indicates a healthy and robust industry, an indication which is further bolstered by the impressive exits consummated throughout 2013 by Israeli high-tech companies.

We hope that you find this survey useful and interesting. **To be included in our email distribution list for future editions of this survey, please go to 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.

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

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

**Trends in Legal Terms in Venture Financings
in Israel**

(2013 Annual Survey)

- **Background** – We have analyzed the terms of venture financings for Israeli and Israeli-related technology companies that reported raising money during 2013. 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 2013 and in the periods covered by our previous surveys may be broken down by types of round, or series, as follows:

Series	2013	2012	2011	2010	2009	H2'08	H1'08	H2'07	H1'07
A	37%	39%	18%	20%	16%	30%	36%	36%	46%
B	30%	31%	25%	28%	24%	30%	27%	32%	18%
C	13%	12%	27%	30%	14%	16%	20%	14%	16%
D	7%	13%	20%	10%	16%	12%	12%	11%	8%
E and higher	13%	5%	10%	12%	30%	12%	5%	7%	12%

- **Price Change** – The financings closed in 2013 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	2013	2012	2011	2010	2009	H2'08	H1'08	H2'07	H1'07
Down	15%	16%	25%	39%	30%	32%	18%	9%	31%
Flat	5%	11%	9%	7%	17%	14%	0%	6%	4%
Up	80%	73%	66%	54%	53%	54%	82%	85%	65%

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

Series	2013	2012	2011	2010	2009	H2'08	H1'08	H2'07	H1'07
B	5%	14%	24%	24%	0%	23%	7%	0%	44%
C	11%	25%	12%	27%	60%	29%	0%	25%	25%
D	20%	11%	35%	71%	50%	20%	57%	17%	25%
E and higher	33%	0%	30%	67%	36%	60%	33%	0%	17%

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

2013	2012	2011	2010	2009	H2'08	H1'08	H2'07	H1'07
75%	76%	77%	69%	81%	83%	75%	75%	63%

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

Series	2013	2012	2011	2010	2009	H2'08	H1'08	H2'07	H1'07
B	57%	45%	72%	48%	78%	69%	73%	78%	56%
C	88%	22.5%	73%	82%	100%	86%	73%	63%	50%
D	80%	22.5%	85%	71%	67%	100%	71%	67%	75%
E and higher	100%	10%	80%	89%	82%	100%	100%	100%	83%

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

2013	2012	2011	2010	2009	H2'08	H1'08	H2'07	H1'07
9%	3%	16%	8%	32%	10%	7%	22%	6%

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	2013	2012	2011	2010	2009	H2'08	H1'08	H2'07	H1'07
>1x- 2x	100%	100%	70%	100%	75%	100%	100%	83%	100%
>2x - 3x	0%	0%	20%	0%	13%	0%	0%	17%	0%
> 3x	0%	0%	10%	0%	12%	0%	0%	0%	0%

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

2013	2012	2011	2010	2009	H2'08	H1'08	H2'07	H1'07
60%	69%	77%	72%	84%	88%	86%	82%	84%

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:

2013	2012	2011	2010	2009	H2'08	H1'08	H2'07	H1'07
57%	59%	59%	62%	61%	58%	58%	54%	47%

- **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:

2013	2012	2011	2010	2009	H2'08	H1'08	H2'07	H1'07
40%	48%	48%	45%	38%	58%	64%	63%	58%

- **Anti-dilution Provisions** - The use of anti-dilution provisions in the financings which took place in 2013 and in the periods covered by our previous surveys may be broken down as follows:

Type of Provision	2013	2012	2011	2010	2009	H2'08	H1'08	H2'07	H1'07
Full Ratchet	6%	4%	9%	14%	11%	12%	9%	16%	14%
Weighted Average	91%	84%	85%	81%	89%	88%	91%	82%	78%
None	3%	12%	6%	5%	0%	0%	0%	2%	8%

- **Pay-to-Play Provisions** - The use of pay-to-play provisions in the financings which took place in 2013 and in the periods covered by our previous surveys may be broken down as follows:

2013	2012	2011	2010	2009	H2'08	H1'08	H2'07	H1'07
0%	1%	2%	4%	14%	7%	2%	2%	8%

- **Redemption** – The percentage of transactions in 2013 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:

2013	2012	2011	2010	2009	H2'08	H1'08	H2'07	H1'07
6%	16%	18%	11%	19%	12%	11%	25%	8%

- **Corporate Reorganizations** – The percentage of post-Series A financing transactions in 2013 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:

2013	2012	2011	2010	2009	H2'08	H1'08	H2'07	H1'07
1%	0%	1%	3%	3%	13%	2%	0%	4%

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FENWICK & WEST LLP
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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
(2013 Annual Survey)

- **Background** – We have analyzed the terms of venture financings for Israeli based/related technology companies that reported raising money during 2013, and compared those terms to the terms of venture financings for 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 –37% (compared to 24% in the Silicon Valley)
 - Series B –30% (compared to 23% in the Silicon Valley)
 - Series C – 13% (compared to 17% in the Silicon Valley)
 - Series D –7% (compared to 15% in the Silicon Valley)
 - Series E and higher – 13% (compared to 20% in the Silicon Valley)
- **Price Change** – The financings during 2013 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	15%	14%
Flat	5%	17%
Up	80%	69%

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

Series	Israel	Silicon Valley
B	5%	10%
C	11%	17%
D	20%	15%
E and higher	33%	18%

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

Israel	Silicon Valley
75%	33%

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

Series	Israel	Silicon Valley
B	57%	23%
C	88%	32%
D	80%	37%
E and higher	100%	44%

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

Israel	Silicon Valley
9%	18%

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%	77%
>2x - 3x	0%	18%
>3x	0%	5%

- **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
60%	31%

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
57%	55%

- **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
40%	4%

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

Type of Provision	Israel	Silicon Valley
Full Ratchet	6%	2%
Weighted Average	91%	97%
None	3%	1%

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

Israel	Silicon Valley
0%	6%

- **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
6%	12%

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

Israel	Silicon Valley
1%	6%

For additional information about this report please contact Barry Kramer at 650-335-7278; bkramer@fenwick.com or Michael Patrick at 650-335-7273; mpatrick@fenwick.com at Fenwick & West; or Lior Aviram – l.aviram@shibolet.com or Limor Peled – l.peled@shibolet.com, at Shibolet & Co. 972-3-7778333. To be placed on an email list for future editions of this survey please go to www.fenwick.com/vctrends.htm or to www.shibolet.com.