

Dear Clients and Friends,

Re: **Survey on Legal Terms of Venture Capital Transactions – First Half of 2011**

We are pleased to present the results of our survey for the first half of 2011, analyzing legal terms commonly used in venture capital investment transactions in Israeli and “Israeli related” hi-tech companies and comparing these terms to those commonly used in the Silicon Valley, United States.

In preparing our survey, we examined the terms of venture capital investment transactions of Israeli and “Israeli-related” high-tech companies, each for an investment amount of at least US \$500,000. The survey relates only to equity transactions in which venture capital funds participated, and does not relate to bridge loan transactions or investments made solely by “Angels”.

As always, this survey was produced in coordination with Fenwick & West LLP., one of the leading Silicon Valley law firm. Our cooperation with Fenwick & West in producing this survey enables us to also present the results of their corresponding survey covering Silicon Valley venture capital investment transactions during the surveyed 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 the survey for the first half of 2011 support the overall "atmosphere" in the VC industry, that **there is a serious shortage in funds for investments in new companies. Out of the total number of transaction rounds that were reviewed, only 7% were first round investments for high-tech companies – the lowest rate since 2005(!)**, the year in which we started this survey.

The rate of down rounds slightly decreased, and the rate of flat rounds and up rounds increased.

Unlike the 2010 survey, which noted certain leniency with respect to the terms required by the VC funds from their portfolio companies, we now see some of the customary terms becoming less favorable to the portfolio companies.

For example, we note an increase in the use of senior liquidation preferences, which was found in 77% of the transactions surveyed, compared to 69% in 2010.

We also note an increase in the use of the participation rights of the preferred shares, which was found to be 85% in the first half of 2011, compared to 72% in 2010.

Furthermore, our survey revealed an increase in the rate of rounds with no cap on the participation rights of the preferred shares - 69% of the transactions surveyed, compared to 62% in 2010.

Multiples in the liquidation preference rights of the preferred shares were shown in surprisingly high rates – 24%(!) of the transactions reviewed included such multiples compared to 8% in 2010. Similarly we observed surprisingly high rates in the use of redemption rights for the preferred shares – 24% of the transactions reviewed included such right of redemption, compared to 11% in 2010. **The increased usage of multiples as well as redemption rights demonstrates that the VC funds consider investments nowadays as riskier.**

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**

(First Half of 2011)

- **Background** – We have analyzed the terms of venture financings for Israeli and Israeli-related technology companies that reported raising money in the first half of 2011. 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 2011 and in the periods covered by our previous surveys may be broken down by types of round, or series, as follows:

Series	H1'11	2010	2009	H2'08	H1'08	H2'07	H1'07	H2'06	H1'06
A	7%	20%	16%	30%	36%	36%	46%	35%	21%
B	19%	28%	24%	30%	27%	32%	18%	27%	28%
C	33%	30%	14%	16%	20%	14%	16%	24%	19%
D	22%	10%	16%	12%	12%	11%	8%	7%	19%
E and higher	19%	12%	30%	12%	5%	7%	12%	7%	13%

- **Price Change** – The financings closed in the first half of 2011 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	H1'11	2010	2009	H2'08	H1'08	H2'07	H1'07	H2'06	H1'06
Down	30%	39%	30%	32%	18%	9%	31%	32%	26%
Flat	12%	7%	17%	14%	0%	6%	4%	6%	9%
Up	58%	54%	53%	54%	82%	85%	65%	62%	65%

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

Series	H1'11	2010	2009	H2'08	H1'08	H2'07	H1'07	H2'06	H1'06
B	33%	24%	0%	23%	7%	0%	44%	7%	31%
C	20%	27%	60%	29%	0%	25%	25%	54%	27%
D	40%	71%	50%	20%	57%	17%	25%	25%	18%
E and higher	33%	67%	36%	60%	33%	0%	17%	50%	14%

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

H1'11	2010	2009	H2'08	H1'08	H2'07	H1'07	H2'06	H1'06
77%	69%	81%	83%	75%	75%	63%	72%	80%

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

Series	H1'11	2010	2009	H2'08	H1'08	H2'07	H1'07	H2'06	H1'06
B	89%	48%	78%	69%	73%	78%	56%	67%	75%
C	73%	82%	100%	86%	73%	63%	50%	77%	73%
D	70%	71%	67%	100%	71%	67%	75%	75%	91%
E and higher	78%	89%	82%	100%	100%	100%	83%	75%	86%

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

H1'11	2010	2009	H2'08	H1'08	H2'07	H1'07	H2'06	H1'06
24%	8%	32%	10%	7%	22%	6%	4%	9%

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	H1'11	2010	2009	H2'08	H1'08	H2'07	H1'07	H2'06	H1'06
>1x- 2x	63%	100%	75%	100%	100%	83%	100%	100%	100%
>2x - 3x	25%	0%	13%	0%	0%	17%	0%	0%	0%
> 3x	12%	0%	12%	0%	0%	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:

H1'11	2010	2009	H2'08	H1'08	H2'07	H1'07	H2'06	H1'06
85%	72%	84%	88%	86%	82%	84%	89%	93%

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:

H1'11	2010	2009	H2'08	H1'08	H2'07	H1'07	H2'06	H1'06
69%	62%	61%	58%	58%	54%	47%	51%	57%

- **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:

H1'11	2010	2009	H2'08	H1'08	H2'07	H1'07	H2'06	H1'06
43%	45%	38%	58%	64%	63%	58%	56%	56%

- **Anti-dilution Provisions** - The use of anti-dilution provisions in the financings which took place in the first half of 2011 and in the periods covered by our previous surveys may be broken down as follows:

Type of Provision	H1'11	2010	2009	H2'08	H1'08	H2'07	H1'07	H2'06	H1'06
Full Ratchet	13%	14%	11%	12%	9%	16%	14%	18%	28%
Weighted Average	85%	81%	89%	88%	91%	82%	78%	82%	65%
None	2%	5%	0%	0%	0%	2%	8%	0%	7%

- **Pay-to-Play Provisions** - The use of pay-to-play provisions in the financings which took place in the first half of 2011 and in the periods covered by our previous surveys may be broken down as follows:

H1'11	2010	2009	H2'08	H1'08	H2'07	H1'07	H2'06	H1'06
2%	4%	14%	7%	2%	2%	8%	2%	9%

- **Redemption** – The percentage of transactions in the first half of 2011 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:

H1'11	2010	2009	H2'08	H1'08	H2'07	H1'07	H2'06	H1'06
24%	11%	19%	12%	11%	25%	8%	18%	14%

- **Corporate Reorganizations** – The percentage of post-Series A financing transactions in the first half of 2011 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:

H1'11	2010	2009	H2'08	H1'08	H2'07	H1'07	H2'06	H1'06
2%	3%	3%	13%	2%	0%	4%	2%	2%

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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
(First Half of 2011 Annual Survey)

- **Background** – We have analyzed the terms of venture financings for Israeli based/related technology companies that reported raising at least \$500,000 in the first half of 2011, 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 – 7% (compared to 18% in the Silicon Valley)
 - Series B – 19% (compared to 24% in the Silicon Valley)
 - Series C – 33% (compared to 25% in the Silicon Valley)
 - Series D – 22% (compared to 18% in the Silicon Valley)
 - Series E and higher – 19% (compared to 15% in the Silicon Valley)
- **Price Change** – The financings during the first half of 2011 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	30%	21%
Flat	12%	15%
Up	58%	64%

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

Series	Israel	Silicon Valley
B	33%	14%
C	20%	22%
D	40%	26%
E and higher	33%	23%

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

Israel	Silicon Valley
77%	40%

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

Series	Israel	Silicon Valley
B	89%	28%
C	73%	42%
D	70%	40%
E and higher	78%	57%

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

Israel	Silicon Valley
24%	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	63%	72%
>2x - 3x	25%	14%
>3x	12%	14%

- **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
85%	41%

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
69%	62%

- **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
43%	7%

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

Type of Provision	Israel	Silicon Valley
Full Ratchet	13%	5%
Weighted Average	85%	92%
None	2%	3%

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

Israel	Silicon Valley
2%	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
24%	19%

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

Israel	Silicon Valley
2%	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.