



Dear Clients and Friends,

Re: **Survey of Legal Terms of Venture Capital Transactions – for 2015**

We are pleased to present the results of our survey for the year of 2015, which analyzes legal terms of venture capital (VC) investments in Israeli and "Israel related" hi-tech companies, while comparing these terms to those common 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 also present, using the same tools and terminology, an interesting comparison between the terms commonly practiced in Israel and those commonly practiced in the Silicon Valley.

Conclusions:

The rightful acclaim of 2015 as one of the best years ever for the Israeli hi-tech sector, was reflected in the terms of venture capital investment rounds we reviewed.

A number of market indicators reached high peaks that were not seen since the 2008 financial crisis.

Firstly, the rate of up-rounds in 2015 reached 84% (!) – the highest rate seen since the 2008 financial crisis.

The rate of down-rounds, on the other hand, dropped to only 8%, the lowest rate we have surveyed since the 2008 financial crisis.

Such rates are identical to the rates recorded in Silicon Valley, which is a unique phenomenon, since usually, market trends in Silicon Valley reach Israel only after a period of time.

Secondly, the rate of first rounds (A rounds) reached a record of 44%. This metric clearly points to increasingly strong market momentum in the industry, resulting in more and more companies raising the early stage funding necessary to get on track.

Thirdly, the findings on the legal side point to the same trend: We observed that the rate of senior liquidation preferences rights drastically dropped to just 63%, the lowest rate observed since the 2008 financial crisis, in contrast to rates of 70% to 80% since 2008. Participations rights also appeared at a decreased rate of 41%, a rate lower than any we have recorded since the 2008 financial crisis (compared with rates of more than 80% from 2008 through 2009, and around 70% from 2008 through 2012); Evidently, the rate of participation rights usage has over time, been cut in half (!) since 2008.

Conspicuously, the above two rights continue to be used much less in Silicon Valley than in Israel – by more than half: Senior liquidation preferences were used in just 31% of the transactions surveyed in 2015 in the Silicon Valley (as opposed to 63% in Israel), while investors held participation rights in just 20% of the transactions during such time in Silicon Valley (as opposed to 41% in Israel).

It was also interesting to find that while in Israel, full-ratchet anti-dilution protection was used very infrequently, at a rate of only 8%, it seems its use has effectively ended in Silicon Valley as of 2015, with full-ratchet anti-dilution protection appearing in 0% of transactions.



These findings demonstrate a strong correlation between general market atmosphere and the usage of investor's protective legal mechanisms and rights, and that market directions translate into trends in legal terms, although comparisons with Silicon Valley do display differences in outlook and legal trends.

Surely, periods such as this shall not continue forever. Still, though, we are clearly at a high-point, and the lack of stability in financial markets that has developed since the latter part of 2015 has not left its mark at all on the Israeli hi-tech industry, at least as of the end of 2015.

We do note that in the fourth quarter of 2015, the rate of down-rounds in Silicon Valley increased slightly, while the rate of up-rounds decreased slightly, from 86% to 82%: only a minor drop, although it will be interesting to follow if it will be seen as an early indicator of a shift in market trends.

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 Silicon Valley, please go to www.fenwick.com/vctrends.htm.

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



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in cooperation with
FENWICK & WEST LLP

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

(2015 Survey)

- **Background** – We have analyzed the terms of venture financings for Israeli and Israeli-related technology companies that reported raising money during the year 2015. 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 2015 and in the periods covered by our previous surveys may be broken down by types of round, or series, as follows:

Series	15	2014	2013	2012	2011	2010	2009	H2'08	H1'08
A	44%	35%	37%	39%	18%	20%	16%	30%	36%
B	28%	23%	30%	31%	25%	28%	24%	30%	27%
C	12%	15%	13%	12%	27%	30%	14%	16%	20%
D	11%	13%	7%	13%	20%	10%	16%	12%	12%
E and higher	5%	14%	13%	5%	10%	12%	30%	12%	5%

- **Price Change** – The financings closed in 2015 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	15	2014	2013	2012	2011	2010	2009	H2'08	H1'08
Down	8%	23%	15%	16%	25%	39%	30%	32%	18%
Flat	8%	9%	5%	11%	9%	7%	17%	14%	0%
Up	84%	68%	80%	73%	66%	54%	53%	54%	82%

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

Series	15	2014	2013	2012	2011	2010	2009	H2'08	H1'08
B	4%	28%	5%	14%	24%	24%	0%	23%	7%
C	9%	17%	11%	25%	12%	27%	60%	29%	0%
D	20%	0%	20%	11%	35%	71%	50%	20%	57%
E and higher	0%	36%	33%	0%	30%	67%	36%	60%	33%

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

15	2014	2013	2012	2011	2010	2009	H2'08	H1'08
63%	73%	75%	76%	77%	69%	81%	83%	75%

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

Series	15	2014	2013	2012	2011	2010	2009	H2'08	H1'08
B	62%	56%	57%	45%	72%	48%	78%	69%	73%
C	55%	83%	88%	22.5%	73%	82%	100%	86%	73%
D	80%	60%	80%	22.5%	85%	71%	67%	100%	71%
E and higher	60%	100%	100%	10%	80%	89%	82%	100%	100%

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

15	2014	2013	2012	2011	2010	2009	H2'08	H1'08
15%	22%	9%	3%	16%	8%	32%	10%	7%

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	15	2014	2013	2012	2011	2010	2009	H2'08	H1'08
>1x- 2x	80%	50%	100%	100%	70%	100%	75%	100%	100%
>2x - 3x	20%	38%	0%	0%	20%	0%	13%	0%	0%
> 3x	0%	12%	0%	0%	10%	0%	12%	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:

15	2014	2013	2012	2011	2010	2009	H2'08	H1'08
41%	54%	60%	69%	77%	72%	84%	88%	86%

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:

15	2014	2013	2012	2011	2010	2009	H2'08	H1'08
55%	53%	57%	59%	59%	62%	61%	58%	58%

- **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:

15	2014	2013	2012	2011	2010	2009	H2'08	H1'08
46%	46%	40%	48%	48%	45%	38%	58%	64%

- **Anti-dilution Provisions** - The use of anti-dilution provisions in the financings which took place in 2015 and in the periods covered by our previous surveys may be broken down as follows:

Type of Provision	15	2014	2013	2012	2011	2010	2009	H2'08	H1'08
Full Ratchet	8%	8%	6%	4%	9%	14%	11%	12%	9%
Weighted Average	88%	82%	91%	84%	85%	81%	89%	88%	91%
None	4%	10%	3%	12%	6%	5%	0%	0%	0%

- **Pay-to-Play Provisions** - The use of pay-to-play provisions in the financings which took place in 2015 and in the periods covered by our previous surveys may be broken down as follows:

15	2014	2013	2012	2011	2010	2009	H2'08	H1'08
0%	3%	0%	1%	2%	4%	14%	7%	2%

- **Redemption** – The percentage of transactions in 2015 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:

15	2014	2013	2012	2011	2010	2009	H2'08	H1'08
5%	6%	6%	16%	18%	11%	19%	12%	11%

- **Corporate Reorganizations** – The percentage of post-Series A financing transactions in 2015 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:

15	2014	2013	2012	2011	2010	2009	H2'08	H1'08
3%	0%	1%	0%	1%	3%	3%	13%	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
(2015 Survey)

- **Background** – We have analyzed the terms of venture financings for Israeli based/related technology companies that reported raising money during 2015, 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 – 44% (compared to 23% in the Silicon Valley)
 - Series B – 28% (compared to 25% in the Silicon Valley)
 - Series C – 12% (compared to 20% in the Silicon Valley)
 - Series D – 11% (compared to 14% in the Silicon Valley)
 - Series E and higher – 5% (compared to 18% in the Silicon Valley)
- **Price Change** – The financings during 2015 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	8%	8%
Flat	8%	8%
Up	84%	84%

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

Series	Israel	Silicon Valley
B	4%	5%
C	9%	9%
D	20%	7%
E and higher	0%	13%

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

Israel	Silicon Valley
63%	31%

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

Series	Israel	Silicon Valley
B	62%	22%
C	55%	30%
D	80%	35%
E and higher	60%	41%

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

Israel	Silicon Valley
15%	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	Israel	Silicon Valley
>1x - 2x	80%	57%
>2x - 3x	20%	36%
>3x	0%	7%

- **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
41%	20%

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
55%	61%

- **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
46%	6%

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

Type of Provision	Israel	Silicon Valley
Full Ratchet	8%	0%
Weighted Average	88%	98%
None	4%	2%

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

Israel	Silicon Valley
0%	4%

- **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
5%	12%

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

Israel	Silicon Valley
3%	5%

For additional information about this report please contact Barry Kramer at 650-335-7278; bkramer@fenwick.com; 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.