

Dear Clients and Friends,

Re: **Survey on Legal Terms of Venture Capital Transactions – For the Year 2017**

We are pleased to present the results of our survey for the year 2017, which analyzes legal terms of venture capital (VC) investments in Israeli and “Israeli related” hi-tech companies, and comparing these terms to those common in the Silicon Valley, United States.

As always, this survey was produced in collaboration 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 an interesting comparison, using the same tools and terminology, between the terms commonly practiced in Israel and those commonly practiced in the Silicon Valley.

Conclusions:

The annual results of 2017 indicate a slight increase in the rate of down rounds and flat rounds. This is in contrast to 2016 where we observed a record rate of 90% of up rounds. Majority of the down rounds were observed in D and later rounds.

What we are seeing is a minor increase in the rate of down rounds and flat rounds, not an indication of any trend. Overall the results of our survey reflected industry stability, where early rounds continued to constitute more than one-third of the rounds, no drastic changes in legal terms were observed, and the majority of the rounds were at a price increase.

The trend observed over the years regarding the declining use of participation rights of preferred shares appears to have continued in 2017, constituting less than a third of the rounds surveyed, and making it the lowest rate we have observed to date. Until 2012, participation rights were applied in two thirds and more of the surveyed rounds. This, too, suggests stabilization of the industry in Israel, as the industry in Israel continues to adopt industry-friendly terms from Silicon Valley, where the rate of use of participation rights hovered at only 15%.

At the same time, along with the declining use of the participation right, the industry in Israel continued to use accumulated interest on the preference amount in investments, in almost half the rounds surveyed (50% of the rounds surveyed in Israel compared with only 6% in Silicon Valley!). In addition, the Israeli industry continued to invest in preferred shares with senior liquidation preference as supposed to preference shares with liquidation preference *pari passu* with the previous financing round, at a rate of more than two-thirds of the rounds surveyed in Israel, compared to less than a third of those surveyed in Silicon Valley (73% in Israel compared with 27% in Silicon Valley). The industry in Israel has traditionally used both of these terms and in this regard is still not adjusting itself to the customary practice in Silicon Valley where investors are less protected with these terms vis-à-vis the entrepreneurs and the investors in the previous rounds. It appears that the industry in Silicon Valley continues to focus on the success of the companies it invests in with less emphasis put on protective terms for events of failure.

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 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
(2017 Survey)

- **Background** – We have analyzed the terms of venture financings for Israeli and Israeli-related technology companies that reported raising money during the year 2017. 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 2017 and in the periods covered by our previous surveys may be broken down by types of round, or series, as follows:

Series	2017	2016	2015	2014	2013	2012	2011	2010	2009	H2'2008
A	35%	33%	44%	35%	37%	39%	18%	20%	16%	30%
B	30%	31%	28%	23%	30%	31%	25%	28%	24%	30%
C	20%	22%	12%	15%	13%	12%	27%	30%	14%	16%
D	4%	8%	11%	13%	7%	13%	20%	10%	16%	12%
E and higher	11%	6%	5%	14%	13%	5%	10%	12%	30%	12%

- **Price Change** – The financings closed in 2017 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	2017	2016	2015	2014	2013	2012	2011	2010	2009	H2'2008
Down	11%	7%	8%	23%	15%	16%	25%	39%	30%	32%
Flat	8%	3%	8%	9%	5%	11%	9%	7%	17%	14%
Up	81%	90%	84%	68%	80%	73%	66%	54%	53%	54%

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

Series	2017	2016	2015	2014	2013	2012	2011	2010	2009	H2'2008
B	10%	0%	4%	28%	5%	14%	24%	24%	0%	23%
C	5%	10%	9%	17%	11%	25%	12%	27%	60%	29%
D	25%	0%	20%	0%	20%	11%	35%	71%	50%	20%
E and higher	18%	33%	0%	36%	33%	0%	30%	67%	36%	60%

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

2017	2016	2015	2014	2013	2012	2011	2010	2009	H2'2008
73%	67%	63%	73%	75%	76%	77%	69%	81%	83%

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

Series	2017	2016	2015	2014	2013	2012	2011	2010	2009	H2'2008
B	68%	69%	62%	56%	57%	45%	72%	48%	78%	69%
C	80%	60%	55%	83%	88%	22.5%	73%	82%	100%	86%
D	75%	57%	80%	60%	80%	22.5%	85%	71%	67%	100%
E and higher	64%	83%	60%	100%	100%	10%	80%	89%	82%	100%

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

2017	2016	2015	2014	2013	2012	2011	2010	2009	H2'2008
6%	11%	15%	22%	9%	3%	16%	8%	32%	10%

- 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	2017	2016	2015	2014	2013	2012	2011	2010	2009	H2'2008
>1x- 2x	67%	100%	80%	50%	100%	100%	70%	100%	75%	100%
>2x - 3x	0%		20%	38%	0%	0%	20%	0%	13%	0%
> 3x	33%		0%	12%	0%	0%	10%	0%	12%	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:

2017	2016	2015	2014	2013	2012	2011	2010	2009	H2'2008
31%	40%	41%	54%	60%	69%	77%	72%	84%	88%

- 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:

2017	2016	2015	2014	2013	2012	2011	2010	2009	H2'2008
44%	38%	55%	53%	57%	59%	59%	62%	61%	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:

2017	2016	2015	2014	2013	2012	2011	2010	2009	H2'2008
50%	49%	46%	46%	40%	48%	48%	45%	38%	58%

- Anti-dilution Provisions** - The use of anti-dilution provisions in the financings which took place in 2017 and in the periods covered by our previous surveys may be broken down as follows:

Type of Provision	2017	2016	2015	2014	2013	2012	2011	2010	2009	H2'2008
Full Ratchet	3%	3%	8%	8%	6%	4%	9%	14%	11%	12%
Weighted Average	94%	95%	88%	82%	91%	84%	85%	81%	89%	88%
None	3%	2%	4%	10%	3%	12%	6%	5%	0%	0%

- Pay-to-Play Provisions** - The use of pay-to-play provisions in the financings which took place in 2017 and in the periods covered by our previous surveys may be broken down as follows:

2017	2016	2015	2014	2013	2012	2011	2010	2009	H2'2008
3%	1%	0%	3%	0%	1%	2%	4%	14%	7%

- **Redemption** – The percentage of transactions in 2017 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:

2017	2016	2015	2014	2013	2012	2011	2010	2009	H2'2008
4%	3%	5%	6%	6%	16%	18%	11%	19%	12%

- **Corporate Reorganizations** – The percentage of post-Series A financing transactions in 2017 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:

2017	2016	2015	2014	2013	2012	2011	2010	2009	H2'2008
3%	1%	3%	0%	1%	0%	1%	3%	3%	13%

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

**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
(2017 Survey)**

- **Background** – We have analyzed the terms of venture financings for Israeli based/related technology companies that reported raising money during the year 2017, 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 – 35% (compared to 28% in the Silicon Valley)
 - Series B – 30% (compared to 25% in the Silicon Valley)
 - Series C – 20% (compared to 20% in the Silicon Valley)
 - Series D – 4% (compared to 12% in the Silicon Valley)
 - Series E and higher – 11% (compared to 16% in the Silicon Valley)
- **Price Change** – The financings during 2017 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	11%	15%
Flat	8%	10%
Up	81%	75%

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

Series	Israel	Silicon Valley
B	10%	16%
C	5%	13%
D	25%	15%
E and higher	18%	16%

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

Israel	Silicon Valley
73%	27%

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

Series	Israel	Silicon Valley
B	68%	24%
C	80%	26%
D	75%	37%
E and higher	64%	26%

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

Israel	Silicon Valley
6%	11%

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	67%	87%
>2x - 3x	0%	13%
>3x	33%	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
31%	15%

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
44%	57%

- **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
50%	6%

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

Type of Provision	Israel	Silicon Valley
Full Ratchet	3%	0%
Weighted Average	94%	98%
None	3%	1%

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

Israel	Silicon Valley
3%	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
4%	8%

- **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.