



TREND IN  
LEGAL TERMS IN  
VENTURE FINANCINGS  
IN ISRAEL  
2019 SURVEY

**S H I B C L E T**  
L A W F I R M

We are pleased to present the results of our survey for the year of 2019, 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

Occasionally reality exceeds any imagination, and thus our current survey is more significant historically and for research purposes and serves as an indication of current market conditions. This survey covers the year 2019, a year coined by the press and by practically all relevant surveys as the Record Year of Exits in the Israeli high-tech sector and a year characterized by large financing rounds.

Unsurprisingly, our survey also pointed to a banner year for venture capital fund raising that was naturally accompanied by favorable investment terms.

The rate of companies that raised in early rounds rose to about 38% of the rounds surveyed, the highest rate since 2015! This rate of first-round investment is even higher than the rate observed in Silicon Valley (“only” 33%). Likewise, various preferential terms attached to preferred shares that were issued over shares issued in previous rounds diminished dramatically. The rate of use of senior liquidation preferences, which already began dropping as early as 2018, continued to fall to the lowest rate we have surveyed - 51%, compared with rates of 70% and above in previous years. It is interesting to note that in the later rounds (E onwards) the rate of use of senior liquidation preferences was nevertheless high (80%), which may be understood as concern for decline in valuations of companies that raised at very high valuations. It should be noted that again Israel saw **fewer** financings at these later stages in comparison to Silicon Valley, in Israel only 9% were later rounds, compared to 16% in Silicon Valley, again demonstrating the tendency for Israeli companies to end their independent path earlier, as supposed to their counterparts in Silicon Valley.

The dramatic change was observed in the rate of the use of “participation preference rights”, which fell to only 16%! This is a dramatic decrease compared to the rate of its use for many years in a majority of the rounds surveyed, which in 2017 and 2018 declined to one third of the rounds surveyed,

and in 2019 only constituted a minority of the rounds surveyed. In this sense, the industry has taken a big step toward the conditions in Silicon Valley, where the usage rate of participation preference rights is about a tenth of the rounds surveyed.

Another, surprisingly dramatic change was observed in the decline in the rate of the use of cumulative interest. From high rates of use, in 2019 it declined to only 13%! That is still three times the rate observed in Silicon Valley, which is just 4%.

Plainly, this optimistic report is being published in the midst of a global crisis, which has already had an impact and will continue to impact the high-tech industry.

From an analysis of the surveys conducted during the past two crises experienced by the industry (the burst of the dot.com bubble and the sub-prime crisis), we learned that the main effect is reflected in the reduction of “capital” available for investment in the following manner:

- The rate of new companies that received VC investments following the crises was low – 22% in the second half of 2003 and 16% in 2009. In 2009, almost half of the rounds (46%) were later rounds of D or higher, demonstrating the predictable tendency of funds to prefer extending their support to existing portfolio companies and reducing investment into new companies.
- There was an increase in the rate of down rounds and a decrease in the rate of up rounds. Although during the period following the burst of the dot.com bubble the rate of down rounds was around 62% for the second half of 2003 and the rate of up rounds was only 10%, following the sub-prime crisis, a decline in the rate of up rounds was observed, though up rounds still accounted for the majority - 53% in 2009 and 54% in 2010 compared with rates of 85% in the second half of 2007 and 82% in the first half of 2008.
- An increase in the rate of the use of multiple distribution preferences was observed (which is an ancillary method for determining the valuation of the company, and in this sense was used as wheel for steering down the valuation from the valuation increases that were observed).
- An increase in the rate of the use of Pay to Play terms was observed – which means that the rights attached to the shares of any shareholder that does not continue to support the company in the subsequent rounds will be adversely affected. This, too, is a clear indication of an environment in which there is financial distress.
- Naturally, we also saw an increase in the rate of recapitalizations and restructuring of share capital in the framework of financing rounds – i.e. a need to reorganize due to acute declines in valuation.

Interestingly, according to our survey data as well as other published surveys (fundraising, corporate capital raising, exits) recovery after each of the crises (the dot-bubble bubble and the sub-prime crisis) began after a few good quarters - two to three years after.

To conclude, on an optimistic tone - in light of analyzing the effects of past crises, it is hoped that the

significant improvements in the preference rights of preferred shares, which were observed in this survey for the first time, will be maintained and continued in investments made in 2020.

**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](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).

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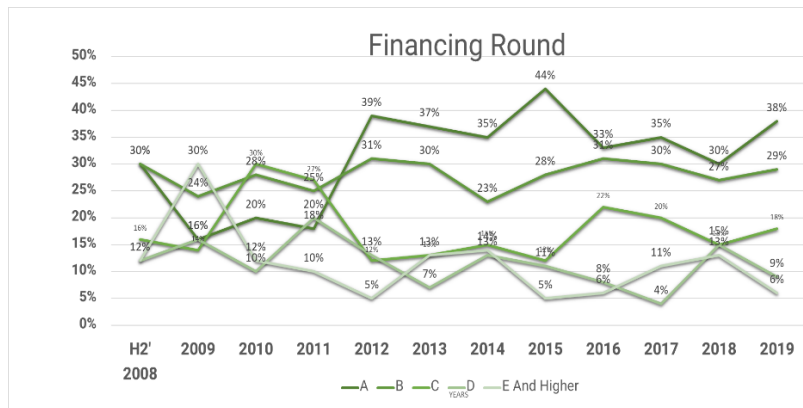
## TRENDS IN LEGAL TERMS IN VENTURE FINANCING IN ISRAEL 2019 SURVEY

### BACKGROUND

We have analyzed the terms of venture financings for Israeli and Israeli-related technology companies that reported raising money during the year 2019. 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.

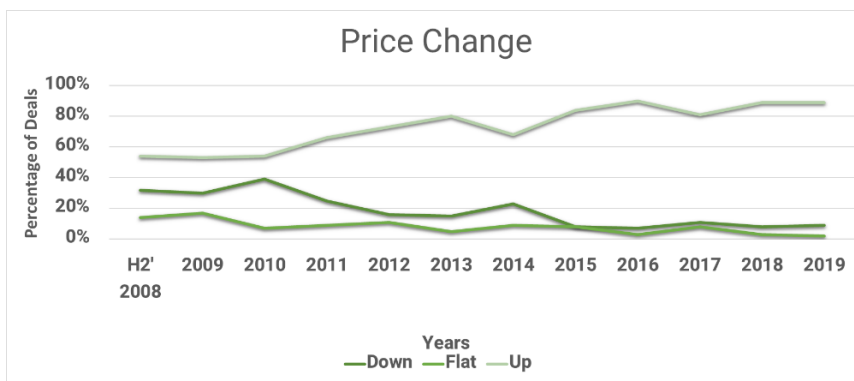
### FINANCING ROUND

The financings closed in 2019 and in the periods covered by our previous surveys may be broken down by types of round, or series, as follows:



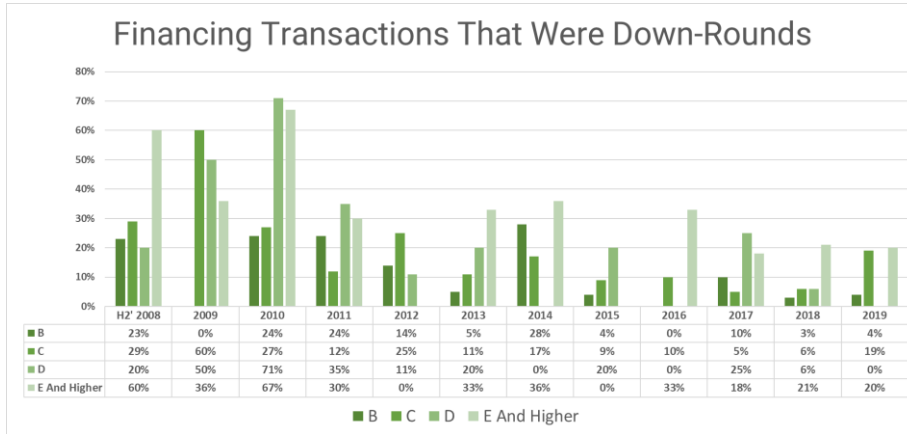
### PRICE CHANGE

The financings closed in 2019 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:



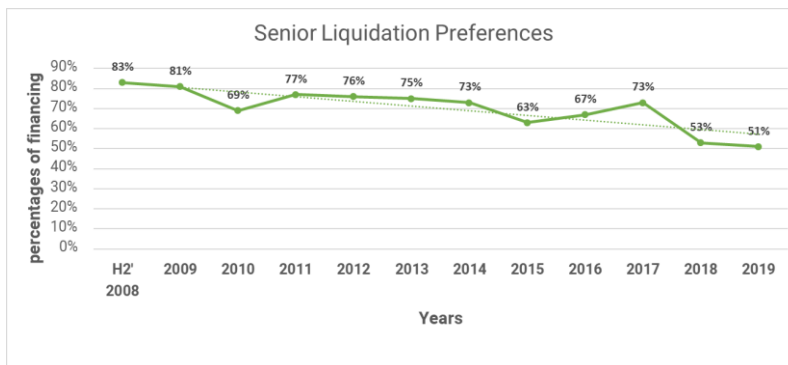
## FINANCING TRANSACTION

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

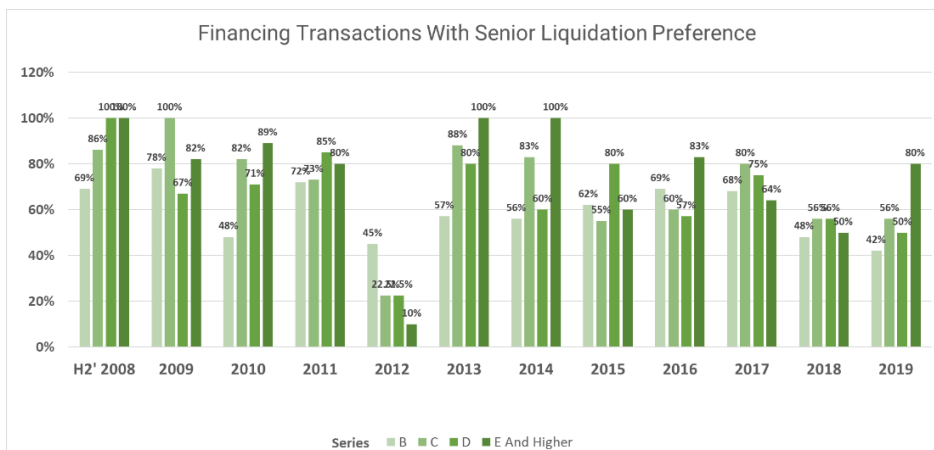


## LIQUIDATION PREFERENCE

Senior liquidation preferences were used in the following percentages of financings:

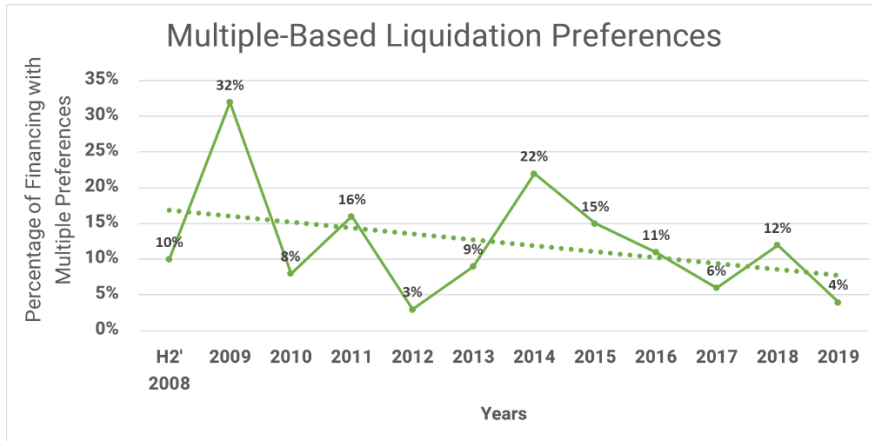


The percentages of financing transactions with senior liquidation preference, broken down by series, were as follows:



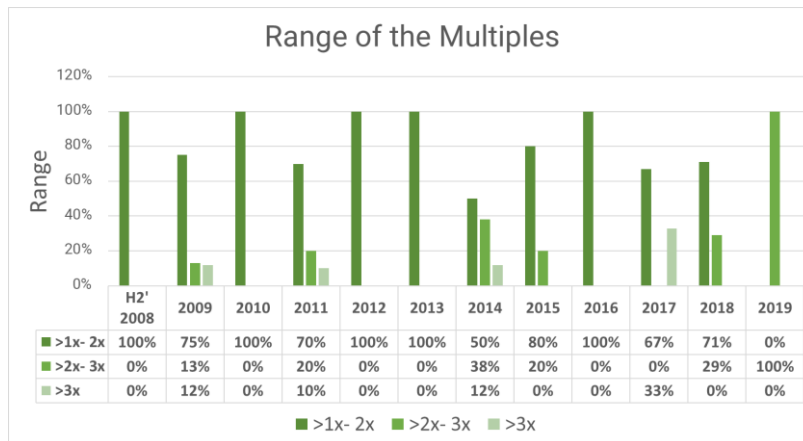
## MULTIPLE – BASED LIQUIDATION PREFERENCES

The percentage of financing transactions with senior liquidation preferences that included multiple preferences was as follows:



## RANGE OF THE MULTIPLES

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



## PARTICIPATION IN LIQUIDATION

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

2019	2018	2017	2016	2015	2014	2013	2012	2011	2010	2009	H2'2008
16%	30%	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:

2019	2018	2017	2016	2015	2014	2013	2012	2011	2010	2009	H2'2008
43%	63%	44%	38%	55%	53%	57%	59%	59%	62%	61%	58%

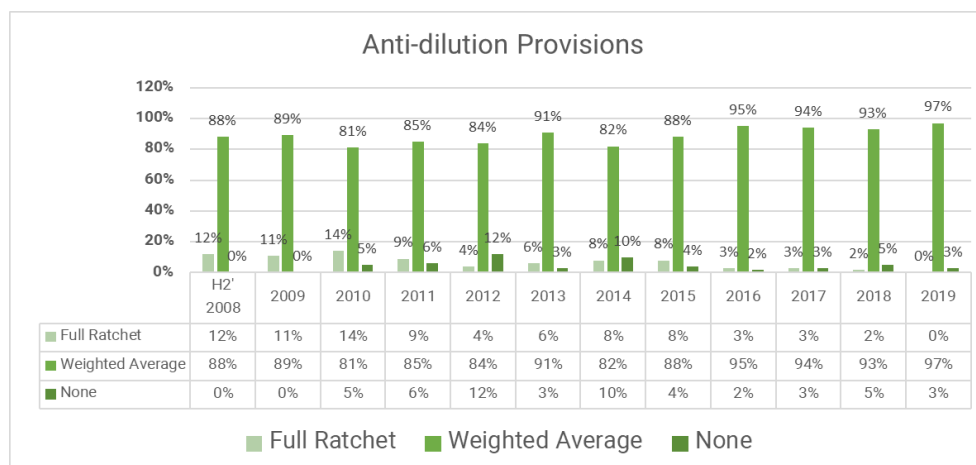
## CUMULATIVE DIVIDENDS

Cumulative dividends and/or accrued interest constituted part of the liquidation preferences in the following percentages of financings:



## ANTI-DILUTION PROVISIONS

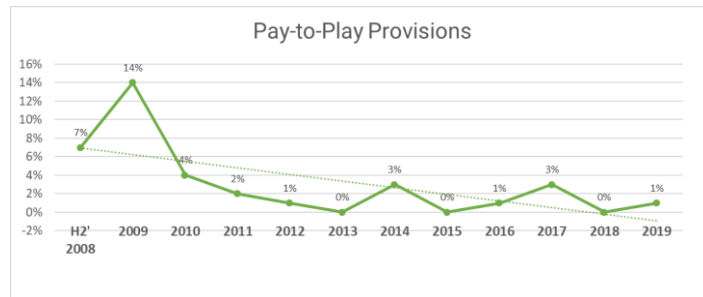
The use of anti-dilution provisions in the financings which took place in 2019 and in the periods covered by our previous surveys may be broken down as follows:





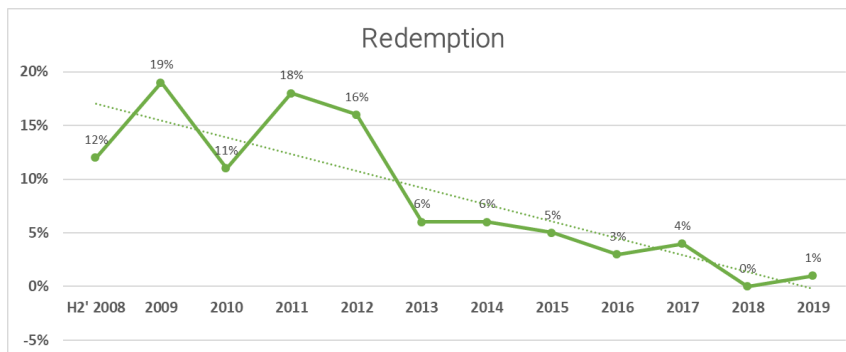
## PAY-TO-PLAY

The use of pay-to-play provisions in the financings which took place in 2019 and in the periods covered by our previous surveys may be broken down as follows:



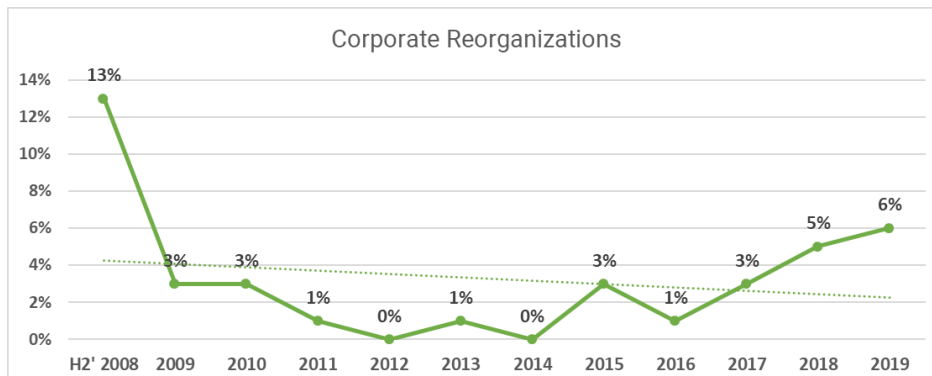
## REDEMPTION

The percentage of transactions in 2019 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:



## CORPORATE REORGANIZATIONS

The percentage of post-Series A financing transactions in 2019 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:



## 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 2019 Survey

### BACKGROUND

We have analyzed the terms of venture financings for Israeli based/related technology companies that reported raising money during 2019, 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 – 38% (compared to 33% in the Silicon Valley)
- Series B – 29% (compared to 22% in the Silicon Valley)
- Series C – 18% (compared to 19% in the Silicon Valley)
- Series D – 9% (compared to 10% in the Silicon Valley)
- Series E and higher – 6% (compared to 16% in the Silicon Valley)

### PRICE CHANGE

The financings during 2019 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	9%	7%
Flat	2%	9%
Up	89%	83%

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

Series	Israel	Silicon Valley
B	4%	6%
C	19%	5%
D	0%	5%
E and higher	20%	14%

## LIQUIDATION PREFERENCE

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

Israel	Silicon Valley
51%	26%

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

Series	Israel	Silicon Valley
B	42%	26%
C	56%	21%
D	50%	27%
E and higher	80%	32%

## MULTIPLE-BASED LIQUIDATION PREFERENCE

The percentages of financing transactions with senior liquidation preferences that included multiple preferences was as follows:

Israel	Silicon Valley
4%	6%

## RANGE OF MULTIPLES

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	0%	100%
>2x - 3x	100%	0%
>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
16%	10%

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

Israel	Silicon Valley
43%	66%

## 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
13%	4%

## ANTI-DILUTION PROVISIONS

The use of anti-dilution provisions in the financings were as follows:

Type of Provision	Israel	Silicon Valley
Full Ratchet	0%	0%
Weighted Average	97%	99%
None	3%	1%

## PAY-TO-PLAY PROVISIONS

The use of pay-to-play provisions in the financings was as follows:

Israel	Silicon Valley
1%	3%

## 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
1%	7%

## CORPORATE REORGANIZATIONS

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

Israel	Silicon Valley
6%	6%