



Dear Clients and Friends,

Re: **Survey on Legal Terms of Venture Capital Transactions – For the Year of 2016**

We are pleased to present the results of our survey for the year of 2016, 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 demonstrate that the second half of 2016 maintained the "conflicting" trends that were observed in the first half of 2016. The annual result once again revealed an unprecedented number of up-rounds, the highest rate we have surveyed thus far: a rate 90% of the rounds surveyed were up-rounds! This rate is even higher than the rate in Silicon Valley - where the rate was 73%.

Alongside the increase in the number of up-rounds at the unprecedented rate, the survey also revealed a decrease in the number of Series A rounds in Israel in comparison to 2015. Although the rate rose slightly compared to the rate observed in the first half of 2016 (29% in the first half of 2016 compared to the annual average of 33%) it still declined compared to the rate in 2015, which was at 44%. In this sense we have neared the numbers in Silicon Valley, but here the rate is still higher (in Silicon Valley the rate of Series A rounds was 23%). The significance of this finding is that in comparison with 2015 there is a drop in new investments, which may be an indication of a slowdown in the industry which continues to finance existing companies but is less eager to invest in new ventures.

We view this decrease in the number of Series A rounds as an aftereffect of the slowdown in the industry in Silicon Valley, along with the slowing effect of the new regulation on foreign investment in China, observed in the first quarter of 2017, which is impacting the flow of capital from China into the Israeli high tech sector. It will be interesting to see how this will be reflected in the survey of the first half of 2017.

In 2016, as in 2015, participation rights with respect to distribution to preferred shareholders was applied in less than half of the rounds surveyed, constituting only 40%, compared to much higher rates in preceding years. Furthermore, the percentage of the use of a cap on participation rights increased, where according to the results of this survey only 38% of the rounds did not apply a cap (i.e. the majority applied a cap!), compared with 55% in 2015 and rates of around 60% in preceding years.

Similar to Silicon Valley, here too the use of the full-ratchet anti-dilution price adjustment mechanism is disappearing. In Silicon Valley, it has been at 0% since 2015, here it has fallen to only 3%!

The improvement in the terms of participation rights, as well as the fading use of the full ratchet anti-dilution formula, reflect an increasing similarity between the terms in the local industry and that of Silicon Valley as well as investor confidence with the valuations they are assigning. If there will be a decrease in the number of up-rounds, it will be interesting to see whether it will also have an impact on these terms, or whether it can be said that the local industry is adopting conditions similar to those in Silicon Valley.



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).

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

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

**Trends in Legal Terms in Venture Financings**  
**in Israel**  
**(2016 Survey)**

- **Background** – We have analyzed the terms of venture financings for Israeli and Israeli-related technology companies that reported raising money during the year 2016. 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 2016 and in the periods covered by our previous surveys may be broken down by types of round, or series, as follows:

Series	2016	2015	2014	2013	2012	2011	2010	2009	H2'2008
A	33%	44%	35%	37%	39%	18%	20%	16%	30%
B	32%	28%	23%	30%	31%	25%	28%	24%	30%
C	22%	12%	15%	13%	12%	27%	30%	14%	16%
D	8%	11%	13%	7%	13%	20%	10%	16%	12%
E and higher	7%	5%	14%	13%	5%	10%	12%	30%	12%

- **Price Change** – The financings closed in 2016 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	2016	2015	2014	2013	2012	2011	2010	2009	H2'2008
Down	7%	8%	23%	15%	16%	25%	39%	30%	32%
Flat	3%	8%	9%	5%	11%	9%	7%	17%	14%
Up	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	2016	2015	2014	2013	2012	2011	2010	2009	H2'2008
B	0%	4%	28%	5%	14%	24%	24%	0%	23%
C	10%	9%	17%	11%	25%	12%	27%	60%	29%
D	0%	20%	0%	20%	11%	35%	71%	50%	20%
E and higher	33%	0%	36%	33%	0%	30%	67%	36%	60%

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

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

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

2016	2015	2014	2013	2012	2011	2010	2009	H2'2008
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:

2016	2015	2014	2013	2012	2011	2010	2009	H2'2008
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:

2016	2015	2014	2013	2012	2011	2010	2009	H2'2008
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 2016 and in the periods covered by our previous surveys may be broken down as follows:

Type of Provision	2016	2015	2014	2013	2012	2011	2010	2009	H2'2008
Full Ratchet	3%	8%	8%	6%	4%	9%	14%	11%	12%
Weighted Average	95%	88%	82%	91%	84%	85%	81%	89%	88%
None	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 2016 and in the periods covered by our previous surveys may be broken down as follows:

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

- **Redemption** – The percentage of transactions in 2016 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:

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

- **Corporate Reorganizations** – The percentage of post-Series A financing transactions in 2016 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:

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

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**FENWICK & WEST LLP**  
**SHIBOLET & CO**  
**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**  
**(2016 Survey)**

- **Background** – We have analyzed the terms of venture financings for Israeli based/related technology companies that reported raising money during 2016, 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 – 33% (compared to 23% in the Silicon Valley)
  - Series B – 32% (compared to 27% in the Silicon Valley)
  - Series C – 22% (compared to 23% in the Silicon Valley)
  - Series D – 8% (compared to 12% in the Silicon Valley)
  - Series E and higher – 7% (compared to 16% in the Silicon Valley)
  
- **Price Change** – The financings during 2016 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	7%	13%
Flat	3%	14%
Up	90%	73%

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

Series	Israel	Silicon Valley
B	0%	6%
C	10%	11%
D	0%	15%
E and higher	33%	25%

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

Israel	Silicon Valley
67%	28%

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

Series	Israel	Silicon Valley
B	69%	20%
C	60%	21%
D	57%	41%
E and higher	83%	42%

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

Israel	Silicon Valley
11%	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	100%	93%
>2x - 3x	0%	7%
>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
40%	18%

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
38%	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
49%	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	95%	99%
None	2%	1%

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

Israel	Silicon Valley
1%	7%

- **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
3%	9%

- **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%

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