



**TRENDS IN  
LEGAL TERMS IN  
VENTURE  
FINANCINGS IN  
ISRAEL  
2022 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 2022, 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 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 results of the survey for 2022, which include the second half of the year, when the market crisis hit, revealed a number of interesting facts:

There was an increase in the rate of early-stage investments (A rounds), on account of later stage investments (C rounds): 37% of the rounds surveyed in the first half of 2022 were A rounds, compared to 23% in 2021, and 26% in 2020, and 15% were C rounds compared to 25% in 2021 and 20% in 2020. An increase in the rate of early-stage investments was also observed in Silicon Valley, where the increase observed was even more acute - from 28% in 2021 to 38% in 2022! Even in Israel, when we isolated the second half of 2022, the increase is stark - almost half of the rounds surveyed were A rounds!(47%)

Compared to the year 2021, which presented a record in number of up-rounds – 96% of the rounds surveyed, in 2022 we observed a decrease in the number of up-rounds, to only 90% of the rounds surveyed and an increase in the number of down-rounds (from 4% in 2021 to 9% in 2022). As expected, most of the down-rounds were C rounds and onwards. While such an increase represented an increase of more than twice the rate of down-rounds that were observed in 2021, it is still a

single digit number. In Silicon Valley a decrease in the rate of up-rounds was also observed – from 95% in 2021 to 90% in 2022, which was split between an increase in the number of flat-rounds and an increase in the rate of down-rounds. The rate of down-rounds in Silicon Valley maintained the same rate in the single digits - 5% in both 2021 and 2022. Based on what we have seen thus far in 2023 – our hunch is that the downward trend in the number of up-rounds - will continue and even accelerate in 2023 and companies for which fundraising is only attainable at a reduced valuation –will continue to postpone equity fundraising, in the hope that in the interim the investment climate will improve .

The rate in the use of senior liquidation preferences, increased albeit only slightly in comparison to 2021 - 41% in 2021, compared to 44% in 2022, but this downward bias is influenced by the results of the first half of 2022. Our survey for the first half of 2022 reflected that the rate of use of senior liquidation preferences dropped to the lowest rate surveyed thus far - only 31%, while in the second half of 2022 the rate of the use of senior liquidation preferences reemerged and rose sharply to a rate of 71% of the rounds surveyed (rates we have not seen since 2017)! In Silicon Valley a slight increase in the rate of the use of senior liquidation preference was observed – from 16% in 2021 to 18% in 2022 .

An interesting point to note is that the rate of use of “participation rights” – remained steady and continued to remain very low – being applied in only 6% of the rounds surveyed .

It is also interesting to note that alongside the minimal usage of participation rights, a decrease was also observed in the rate of use of uncapped participation rights, such that only 58% of those that applied participation rights did not place a cap on the right, compared to a rate of 75% in 2021 .

In light of the above results, it can be said that in response to the crisis, investors were not inclined to toughen conditions with the entrepreneurs, but rather chose to either invest less, delay investing more, or reflected the crisis by the lowering of

company valuations (without significantly toughening the legal conditions with the entrepreneurs) .

On the other hand, the order of preference with respect to distribution of new money versus old money rose sharply and according to the results of this survey, this is the main “toughening” that was observed in light of and in response to the crisis (aside from the lowering of valuations) .

The continuing decline in the use of participation rights in Israel is worth reemphasizing. The right to participate is a means for an investor to receive from distributable proceeds significantly more than its relative share in the company, essentially at the expense of the entrepreneurs. In the past, the rate of the use of this right in Israel was commonplace, but slowly over time, the Israel industry moved towards the norms of Silicon Valley and has largely abandoned its use .

It was also observed that during a crisis it is easier for investors to invest in early-stage companies that require less funding, with the hope that when such companies will need additional funds, it will be after the crisis has passed.

We are publishing this survey with a constitutional crisis in Israel hovering in the backdrop which began after the period covered by this survey, as well as the downgrading of Israel’s credit outlook rating, both of which are impacting the local industry. In addition, this survey covers the period prior to the banking crisis in the US and Switzerland, which deepened the feeling of global financial instability. It is still too early to say how all this will affect the legal conditions, if at all, with the exception of course of harming the number of investments and company valuations .

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.**

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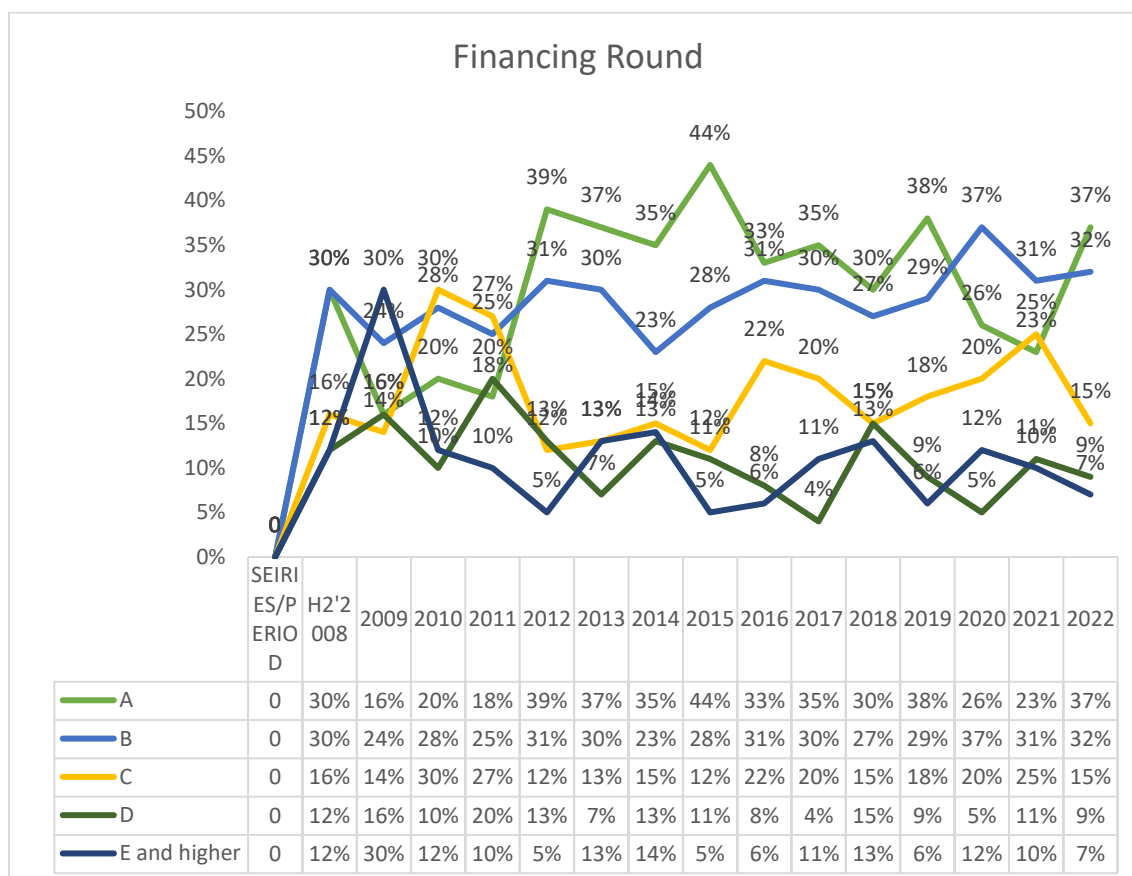
## Trends in Legal Terms in Venture Financings in Israel 2022 Survey

### BACKGROUND

We have analyzed the terms of venture financings for Israeli and Israeli-related technology companies that reported raising money during the year of 2022. 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.

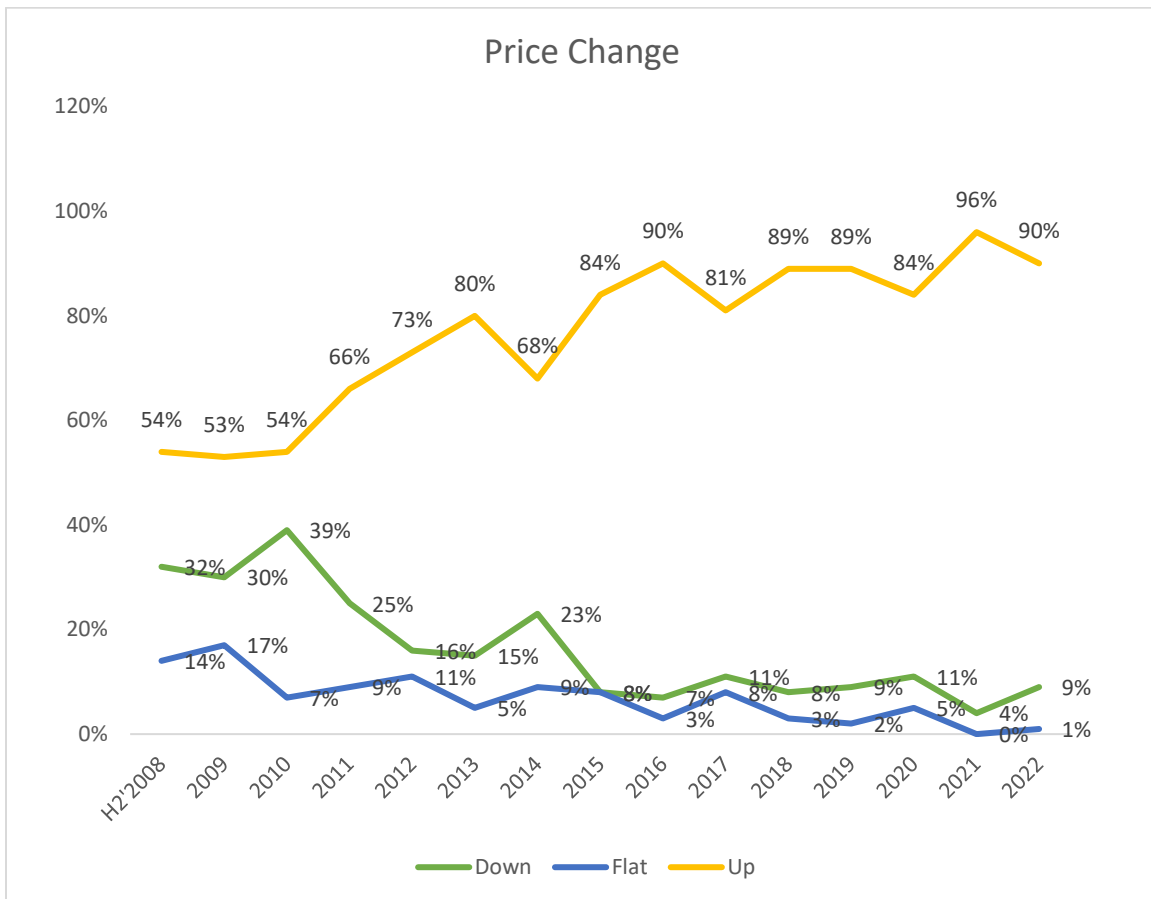
### FINANCING ROUND

The financings closed in the year of 2022 and in the periods covered by our previous surveys may be broken down by types of rounds or series, as follows:



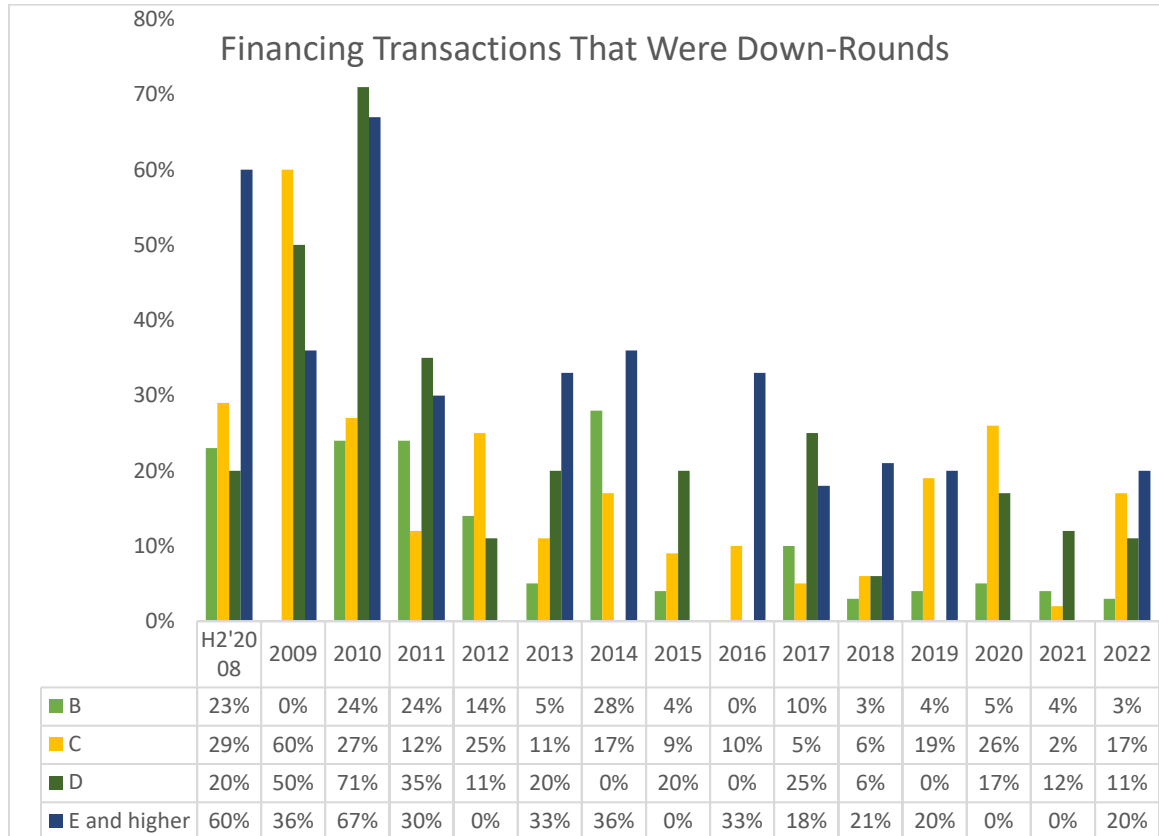
## PRICE CHANGE

The financings closed in the year of 2022 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 TRANSACTIONS

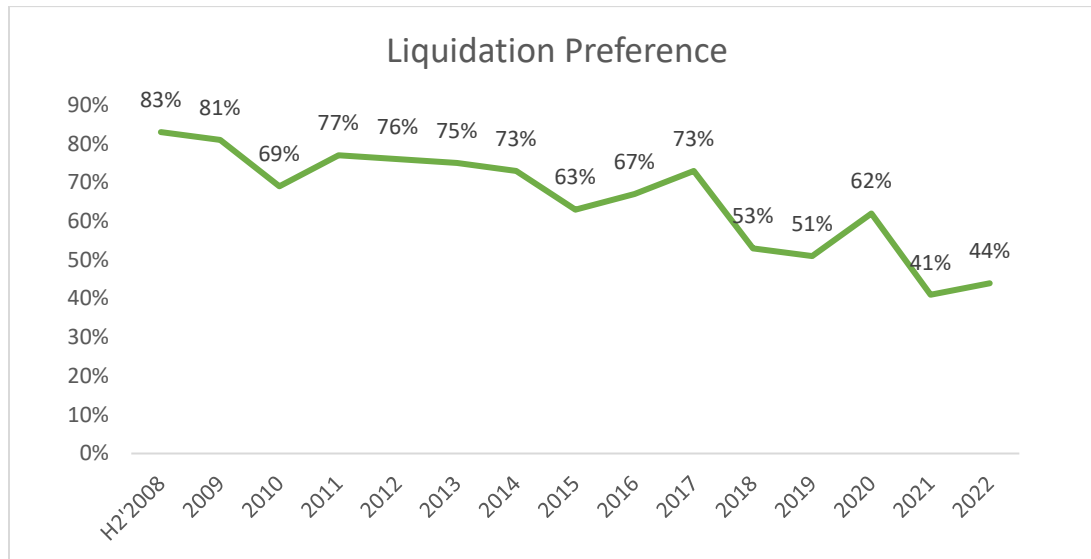
The percentages of financing transactions that were down-rounds, broken down by series, were as follows:



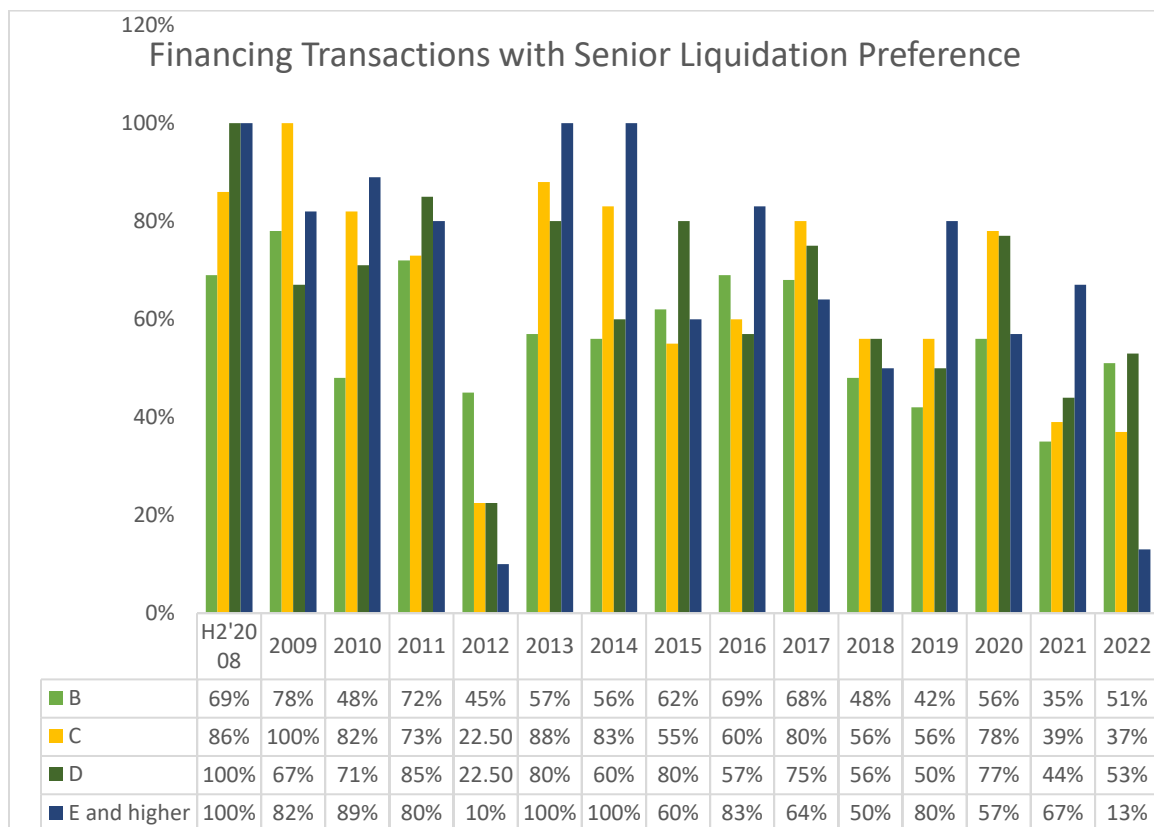


## LIQUIDATION PREFERENCE

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

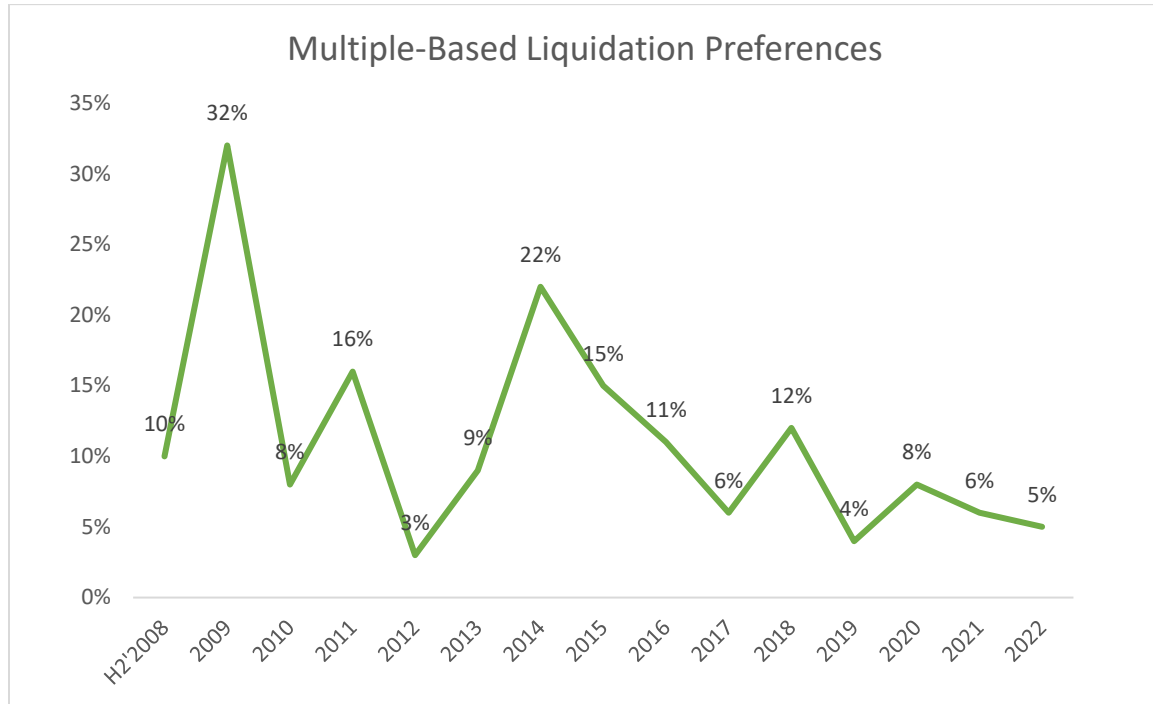


The percentages of financing transactions with senior liquidation preference, broken down by series, were as follows:



## MULTIPLE-BASED LIQUIDATION PREFERENCES

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



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	H2'2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
>1x- 2x	100%	75%	100%	70%	100%	100%	50%	80%	100%	67%	71%	0	50%	100%	66%
>2x - 3x	0%	13%	0%	20%	0%	0%	38%	20%	0%	0%	29%	100%	50%	0%	17%
> 3x	0%	12%	0%	10%	0%	0%	12%	0%	0%	33%	0%	0	0%	0%	17%

## PARTICIPATION IN LIQUIDATION

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

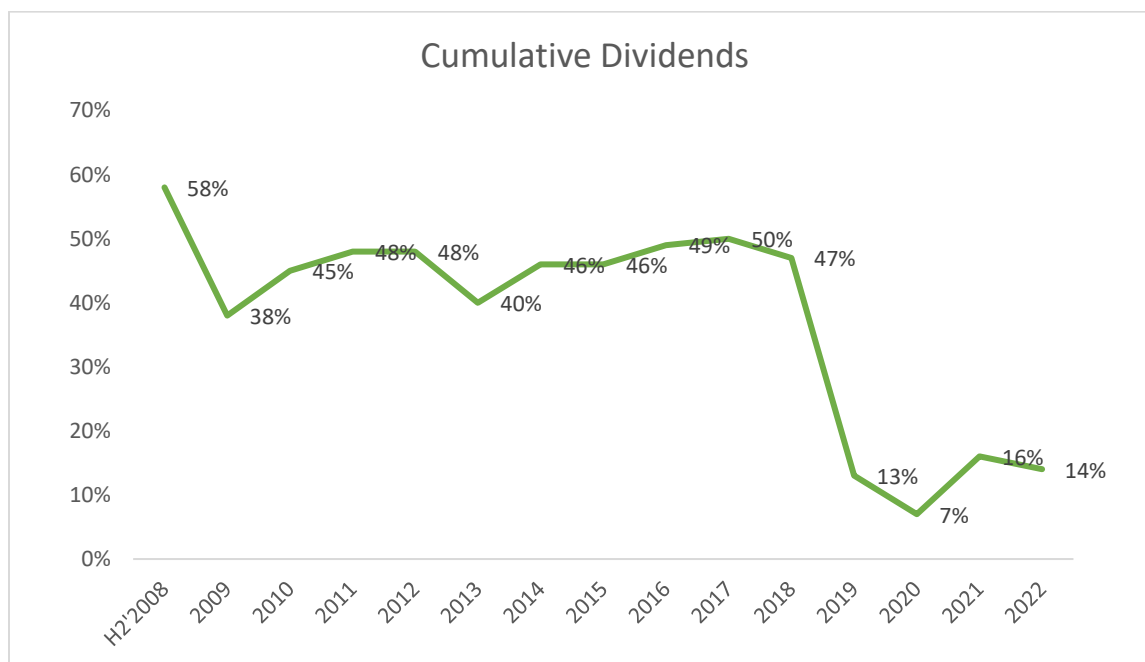
H2'2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
88%	84%	72%	77%	69%	60%	54%	41%	40%	31%	30%	16%	17%	7%	6%

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:

H2'2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
58%	61%	62%	59%	59%	57%	53%	55%	38%	44%	63%	43%	35%	75%	58%

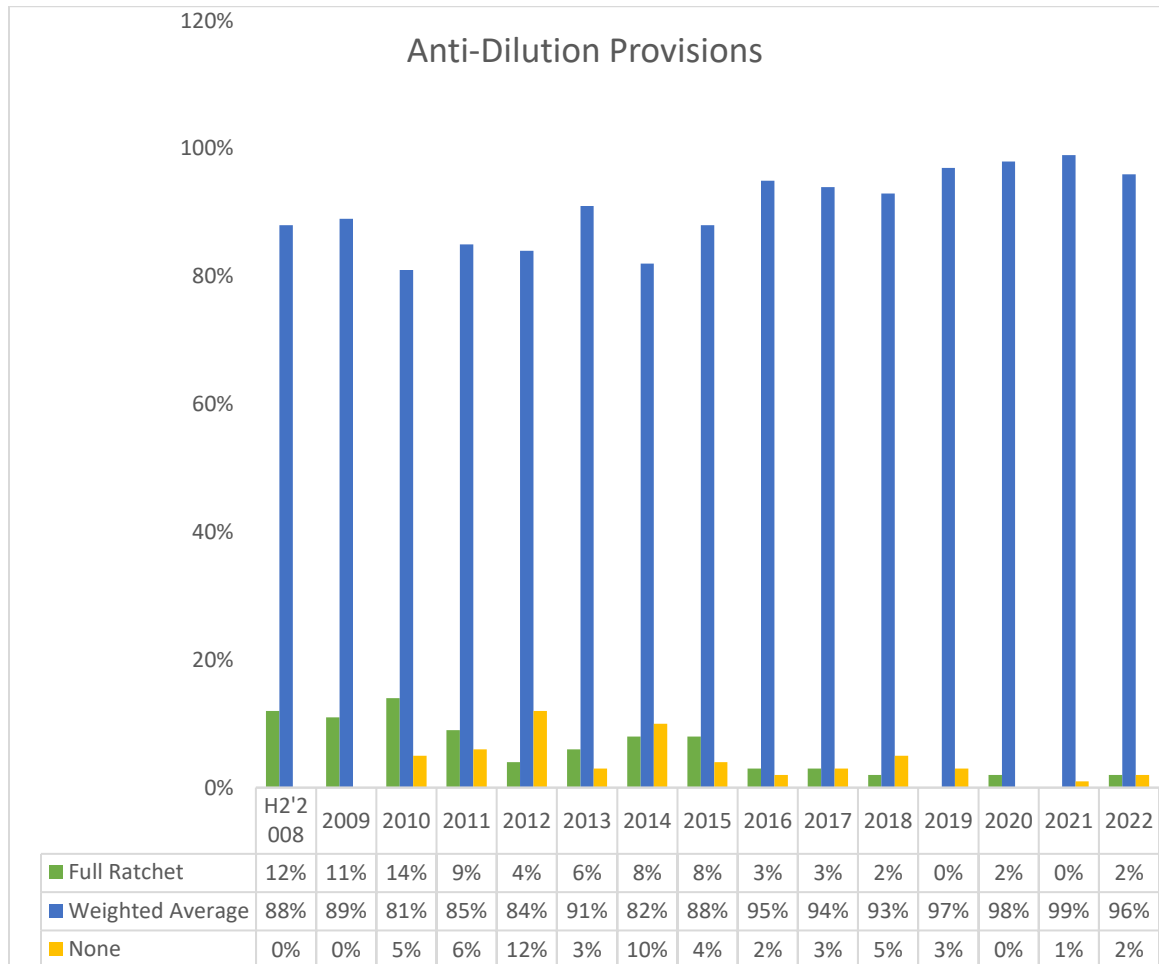
## CUMULATIVE DIVIDENDS AND/OR ACCRUED INTEREST AS PART OF THE LIQUIDATION PREFERENCE

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



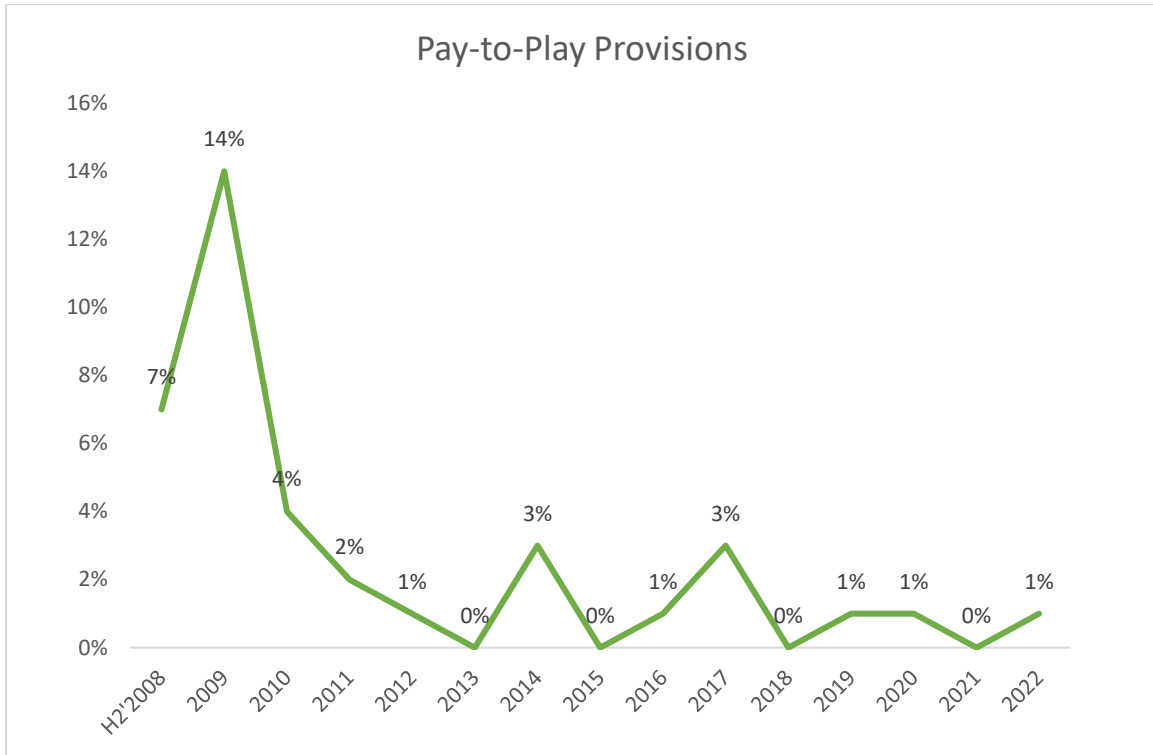
## ANTI-DILUTION PROVISIONS

The use of anti-dilution provisions in the financings which took place in the year of 2022 and in the periods covered by our previous surveys may be broken down as follows:



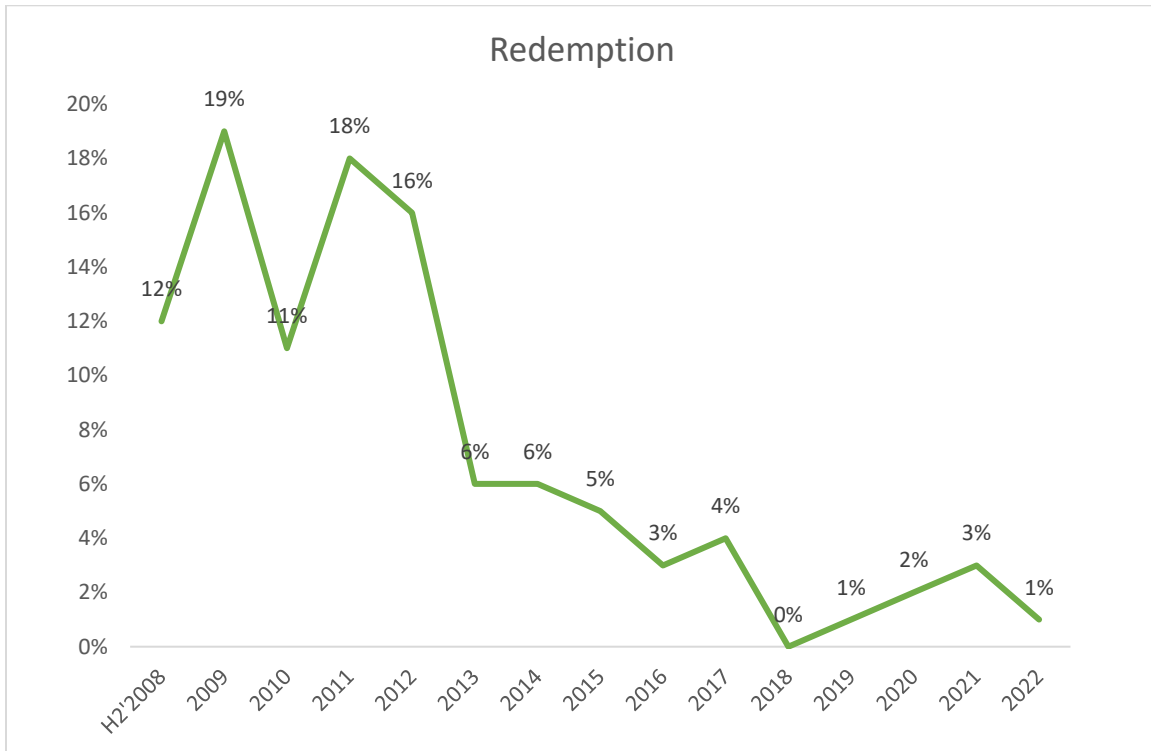
## ■ PAY-TO-PLAY PROVISIONS

The use of pay-to-play provisions in the financings which took place in the year of 2022 and in the periods covered by our previous surveys may be broken down as follows:



## REDEMPTION

The percentage of transactions in the year of 2022 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 the year of 2022 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 2022 Survey

## BACKGROUND

We have analyzed the terms of venture financings for Israeli based/related technology companies that reported raising money during the year of 2022, 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 – 37% (compared to 38% in the Silicon Valley)

Series B – 32% (compared to 28% in the Silicon Valley)

Series C – 15% (compared to 19% in the Silicon Valley)

Series D – 9% (compared to 7% in the Silicon Valley)

Series E and higher – 7% (compared to 8% in the Silicon Valley)

## PRICE CHANGE

The financings during the year of 2022 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	Israel	Silicon Valley
Down	9%	5%
Flat	1%	4%
Up	90%	91%



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

Series	Israel	Silicon Valley
B	3%	5%
C	17%	4%
D	11%	4%
E and higher	20%	5%

### ■ LIQUIDATION PREFERENCE

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

Israel	Silicon Valley
44%	18%

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

Series	Israel	Silicon Valley
B	51%	12%
C	37%	18%
D	53%	27%
E and higher	13%	27%

### ■ MULTIPLE-BASED LIQUIDATION PREFERENCE

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

Israel	Silicon Valley
5%	5%

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	66%	100%
>2x - 3x	17%	0%
>3x	17%	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
6%	3%

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
58%	60%

### 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
14%	2%

## ■ ANTI-DILUTION PROVISIONS

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

Type of Provision	Israel	Silicon Valley
Full Ratchet	2%	0%
Weighted Average	96%	100%
None	2%	0%

## ■ PAY-TO-PLAY PROVISIONS

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

Israel	Silicon Valley
1%	2%

## ■ 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%	2%

## ■ CORPORATE REORGANIZATIONS

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

Israel	Silicon Valley
1%	5%