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Trends in Terms of Venture Financings In the San Francisco Bay Area (First Quarter 2005)

Background – We analyzed the terms of venture financings for 89 technology companies headquartered in the San Francisco Bay Area that reported raising money in the first quarter of 2005.

Overview

The results of the 1Q05 survey showed a continuation of the positive trend in venture terms. The highlights of the quarter were as follows:

Up rounds outpaced down rounds for the fifth quarter in a row. The ratio of 59% up rounds versus 31% down rounds was similar to 4Q04.

The Fenwick & West Venture Capital Barometer™ showed a 24% average price increase for companies receiving venture capital financing in 1Q05 compared to such companies previous financing round. This increase was lower than the 36% increase recorded in 4Q04, but 4Q04 was our largest increase to date, and the 1Q05 increase was higher than the 17% increase recorded in 3Q04.

Non-price terms continued to trend to the pre-bubble norm, with the use of multiple liquidation preference at the lowest level since we began the survey in 2002.

Although these are positive indications, there is reason for some caution as other 1Q05 venture capital indicators were more mixed. These included the following:

The amount invested by venture capitalists in the U.S. in 1Q05 decreased when compared to 4Q04 by 10-15% in dollar terms, as reported by industry publications. The sector seeing the largest decline was life sciences.

There were only eight venture backed IPOs in the U.S. in 1Q05, only one of which was from the IT industry.

NASDAQ was down 7% in 1Q05.

However, on a positive note, the aggregate dollar volume of acquisitions of venture backed companies and the amounts paid on average for acquired companies were up significantly in 1Q05, according to industry publications.

Financing Round – The financings broke down according to the following rounds:

| Series | Q1'05 | Q4 '04 | Q3 '04 | Q2 '04 | Q1 '04 | Q4 '03 | Q3 '03 | Q2 '03 |
|--------------|-------|--------|--------|--------|--------|--------|--------|--------|
| A | 24% | 18% | 14% | 17% | 16% | 16% | 20% | 20% |
| B | 29% | 24% | 29% | 28% | 27% | 27% | 30% | 24% |
| C | 16% | 28% | 20% | 25% | 21% | 30% | 19% | 29% |
| D | 22% | 18% | 20% | 15% | 15% | 15% | 18% | 12% |
| E and higher | 9% | 12% | 17% | 15% | 21% | 12% | 13% | 15% |

Price Change – The direction of price changes for companies receiving financing this quarter, compared to their previous round, were as follows:

| Price Change | Q1'05 | Q4 '04 | Q3 '04 | Q2 '04 | Q1 '04 | Q4 '03 | Q3 '03 | Q2 '03 |
|--------------|-------|--------|--------|--------|--------|--------|--------|--------|
| Down | 31% | 28% | 32% | 21% | 30% | 45% | 53% | 56% |
| Flat | 10% | 12% | 15% | 12% | 19% | 13% | 12% | 4% |
| Up | 59% | 60% | 53% | 67% | 51% | 42% | 35% | 40% |

The percentage of down rounds by series were as follows:

| Series | Q1'05 | Q4 '04 | Q3 '04 | Q2 '04 | Q1 '04 | Q4 '03 | Q3 '03 | Q2 '03 |
|--------------|-------|--------|--------|--------|--------|--------|--------|--------|
| B | 19% | 24% | 12% | 16% | 29% | 31% | 46% | 26% |
| C | 36% | 25% | 32% | 25% | 30% | 34% | 44% | 59% |
| D | 30% | 28% | 52% | 18% | 21% | 75% | 53% | 64% |
| E and higher | 62% | 42% | 42% | 29% | 38% | 62% | 82% | 93% |

The Fenwick & West Venture Capital Barometer™ (Magnitude of Price Change) –Set forth below is (i) for up rounds, the average per share percentage increase over the previous round, (ii) for down rounds, the average per share percentage decrease over the previous round, and (iii) the overall average per share percentage change from the previous round for all rounds taken together. Such information is broken down by series for Q1'05 and is provided on an aggregate basis for comparison purposes for Q1'04, Q2'04, Q3'04 and Q4'04. In calculating the “net result” for all rounds, “flat rounds” are included. For purposes of these calculations, all financings are considered equal, and accordingly we have not weighted the results for the amount raised in a financing.

Q1'05

| Percent Change | Series B | Series C | Series D | Series E and higher | Combined total for all Series for Q1'05 | Combined total for all Series for Q4 '04 | Combined total for all Series for Q3 '04 | Combined total for all Series for Q2 '04 | Combined total for all Series for Q1 '04 |
|----------------|----------|----------|----------|---------------------|-----------------------------------------|------------------------------------------|------------------------------------------|------------------------------------------|------------------------------------------|
| Up rounds | +76% | +67% | +51% | +37% | +66% | +84% | +66% | +58% | +67% |
| Down rounds | -48% | -58% | -29% | -65% | -49% | -54% | -59% | -48% | -56% |
| Net result | +52% | +13% | +14% | -27% | +24% | +36% | +17% | +28% | +17% |

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

| Q1'05 | Q4 '04 | Q3 '04 | Q2 '04 | Q1 '04 | Q4 '03 | Q3 '03 | Q2 '03 |
|-------|--------|--------|--------|--------|--------|--------|--------|
| 50% | 46% | 54% | 56% | 52% | 57% | 57% | 55% |

The percentage of senior liquidation preference by series was as follows:

| Series | Q1'05 | Q4 '04 | Q3 '04 | Q2 '04 | Q1 '04 | Q4 '03 | Q3 '03 | Q2 '03 |
|--------------|-------|--------|--------|--------|--------|--------|--------|--------|
| B | 38% | 32% | 33% | 45% | 47% | 38% | 50% | 43% |
| C | 57% | 39% | 59% | 50% | 44% | 59% | 56% | 59% |
| D | 55% | 72% | 61% | 59% | 58% | 62% | 60% | 55% |
| E and higher | 62% | 50% | 74% | 82% | 62% | 85% | 73% | 64% |

Multiple Liquidation Preferences - The percentage of senior liquidation preferences that were multiple preferences were as follows:

| Q1'05 | Q4 '04 | Q3 '04 | Q2 '04 | Q1 '04 | Q4 '03 | Q3 '03 | Q2 '03 |
|-------|--------|--------|--------|--------|--------|--------|--------|
| 12% | 24% | 31% | 25% | 27% | 33% | 21% | 44% |

Of the senior liquidation preferences, the ranges of the multiples broke down as follows:

| Range of multiples | Q1'05 | Q4 '04 | Q3 '04 | Q2 '04 | Q1 '04 | Q4 '03 | Q3 '03 | Q2 '03 |
|--------------------|-------|--------|--------|--------|--------|--------|--------|--------|
| >1x – 2x | 100% | 89% | 75% | 84% | 60% | 76% | 88% | 78% |
| >2x – 3x | 0% | 0% | 6% | 8% | 27% | 18% | 12% | 11% |
| > 3x | 0% | 11% | 19% | 8% | 13% | 6% | 0% | 11% |

Participation in Liquidation - The percentages of financings that provided for participation were as follows:

| Q1'05 | Q4 '04 | Q3 '04 | Q2 '04 | Q1 '04 | Q4 '03 | Q3 '03 | Q2 '03 |
|-------|--------|--------|--------|--------|--------|--------|--------|
| 73% | 60% | 74% | 64% | 70% | 74% | 68% | 81% |

Of the financings that had participation, the percentages that were not capped were as follows:

| Q1'05 | Q4 '04 | Q3 '04 | Q2 '04 | Q1 '04 | Q4 '03 | Q3 '03 | Q2 '03 |
|-------|--------|--------|--------|--------|--------|--------|--------|
| 51% | 60% | 63% | 47% | 57% | 61% | 66% | 59% |

Cumulative Dividends – Cumulative dividends were provided for in the following percentages of financings:

| Q1'05 | Q4 '04 | Q3 '04 | Q2 '04 | Q1 '04 | Q4 '03 | Q3 '03 | Q2 '03 |
|-------|--------|--------|--------|--------|--------|--------|--------|
| 9% | 9% | 9% | 6% | 6% | 7% | 12% | 4% |

Antidilution Provisions - The uses of antidilution provisions in the financings were as follows:

| Type of Provision | Q1'05 | Q4 '04 | Q3 '04 | Q2 '04 | Q1 '04 | Q4 '03 | Q3 '03 | Q2 '03 |
|-------------------|-------|--------|--------|--------|--------|--------|--------|--------|
| Ratchet | 9% | 9% | 14% | 9% | 5% | 9% | 8% | 10% |
| Weighted Average | 87% | 85% | 85% | 87% | 93% | 89% | 87% | 88% |
| None | 4% | 6% | 1% | 4% | 2% | 2% | 5% | 2% |

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

Percentages of financings having pay-to-play provisions.

| Q1'05 | Q4 '04 | Q3 '04 | Q2 '04 | Q1 '04 | Q4 '03 | Q3 '03 | Q2 '03 |
|-------|--------|--------|--------|--------|--------|--------|--------|
| 17% | 12% | 16% | 20% | 17% | 20% | 12% | 20% |

The pay-to-play provisions provided for conversion of non-participating investors' preferred stock into common stock or shadow preferred stock, in the percentages set forth below:

- Common Stock.

| Q1'05 | Q4 '04 | Q3 '04 | Q2 '04 | Q1 '04 | Q4 '03 | Q3 '03 | Q2 '03 |
|-------|--------|--------|--------|--------|--------|--------|--------|
| 93% | 75% | 72% | 77% | 67% | 81% | 80% | 84% |

- Shadow Preferred Stock.

| Q1'05 | Q4 '04 | Q3 '04 | Q2 '04 | Q1 '04 | Q4 '03 | Q3 '03 | Q2 '03 |
|-------|--------|--------|--------|--------|--------|--------|--------|
| 7% | 25% | 28% | 23% | 33% | 19% | 20% | 16% |

Redemption – The percentages of financings providing for mandatory redemption or redemption at the option of the venture capitalist were as follows:

| Q1'05 | Q4 '04 | Q3 '04 | Q2 '04 | Q1 '04 | Q4 '03 | Q3 '03 | Q2 '03 |
|-------|--------|--------|--------|--------|--------|--------|--------|
| 30% | 28% | 30% | 28% | 27% | 32% | 29% | 40% |

Corporate Reorganizations - The percentages of post-Series A financings involving a corporate reorganization were as follows:

| Q1'05 | Q4 '04 | Q3 '04 | Q2 '04 | Q1 '04 | Q4 '03 | Q3 '03 | Q2 '03 |
|-------|--------|--------|--------|--------|--------|--------|--------|
| 13% | 8% | 20% | 12% | 17% | 11% | 21% | 19% |

For additional information about this report please contact Barry Kramer at 650-335-7278; bkramer@fenwick.com or Michael Patrick at 650-335-7273; mpatrick@fenwick.com at Fenwick & West. To be placed on an email list for future editions of this survey please go to www.fenwick.com/vctrends.htm. The contents of this report are not intended, and should not be considered, as legal advice or opinion. Information on aggregate dollar venture investment and aggregate dollar M&A activity was obtained from publications by the Dow Jones VentureSource Survey and/or the Pricewaterhouse Coopers/Thomson Venture Economics/National Venture Capital Association Moneytree™ Survey.