TORYS LLP

2023 DEAL STUDY

Venture Financing Report

Contents

Executive Summary

In 2022, Canadian venture capital was largely defined by corrective effects in the market following record levels of activity in the year prior.

Canadian venture-backed companies were hardly alone in this phenomenon, as businesses across the world responded to increased interest rates, rising inflation, supply chain issues and global unrest. Companies were faced with the choice to cut costs or accept financing in smaller amounts or on less favourable terms than in the recent past. Consequently, we saw fewer financings and at lower valuations than in the previous two years.

While the movement in deal terms was not dramatic, there was a clear directional trend towards more investor-friendly provisions and deals, including a significant increase in the number of down rounds compared to the previous two years. In our work with clients, we are seeing companies raise money via bridge and insider rounds containing investor-favourable terms on non-preferred share structures. The level of market departure to investor-friendly terms as compared to prior years is therefore understated by the data, as much of the structured non-preferred share financings are not publicly reported or not on standard terms.

Although the deal terms from financings we reviewed were certainly more investor-friendly, startups continued to hold the line on terms such as participating preferred shares. The lack of participating preferred share financings is consistent with what we saw in the market and indicates that even in times of depressed valuations, Canadian startups are not willing to raise money on such dilutive terms.

2022 was a challenging year for Canadian founders and the Canadian VC ecosystem. We expect 2023 to be an equally challenging environment but strongly believe in the resilience of the Canadian start-up and venture capital ecosystem and expect that great companies will continue to be formed and financed. In particular, we expect areas such as clean energy and fintech will continue to thrive, spurred on by consumer appetite, more open markets and favourable regulations.

This is our third annual Venture Financing Report and we have included comparisons to the data from our 2020 and 2021 Venture Financing Reports throughout.

Several U.S. law firms publish similar reports[1], which are referenced in this study to provide additional context on where Canadian market practices align and/or diverge from U.S. trends. For a quick overview of all the data, including a Canadian vs. U.S. comparison, please see the Snapshot on page 29.

Unless otherwise noted, the study reports all financings in Canadian dollars. For financings where the announcement was reported in U.S. dollars, the applicable amounts were converted into Canadian dollars using the daily average exchange rate published by the Bank of Canada on the date the applicable financing was reported.

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[1] See (i) Silicon Valley Venture Capital Survey, Fourth Quarter 2022, published by Fenwick & West LLP on February 15, 2023, and (ii) the Entrepreneurs Report: Private Company Financing Trends (Full-Year 2022), published by Wilson Sonsini on February 17, 2023 (collectively, the "U.S. Deal Studies").

2022 Financing Activity in Canada

The global business community had a wide range of issues to address in 2022, including political unrest, supply chain issues, rising inflation and increased interest rates. The Canadian VC ecosystem was no exception.

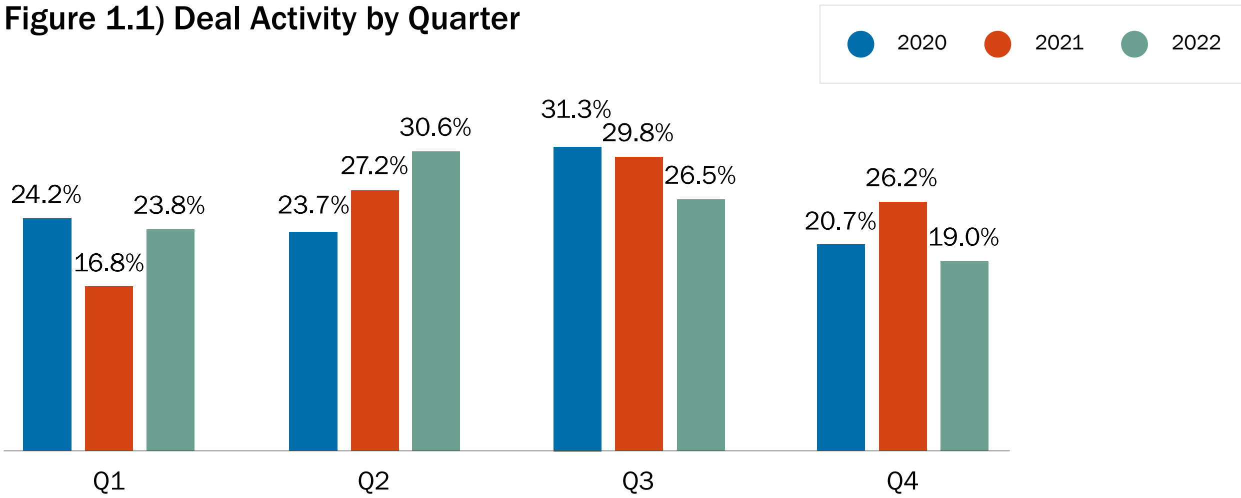
1) Deal Activity

Venture capital financings were down in Canada compared to the previous two years. Venture capitalists shifted toward lower-risk investments, while companies faced increased costs in doing business and in accessing capital.

At the same time, the decline in venture investment activity may not be as significant as the data seems to indicate. We are seeing several of our clients raise money via insider rounds. This includes extensions of prior fundraising rounds or financings in the form of secured debt. We are also seeing an increase in "sweeteners", such as warrants or pull-up rights, for investors that participate in these insider rounds.

> "Although investors are more cautious, the appetite for good companies with clear ideas remains strong. Founders with a great structure and a well-thought-out product are still seeing a great deal of interest from Canadian and U.S. VCs."
>
> - Konata Lake, Partner, Torys

Figure 1.1) Deal Activity by Quarter

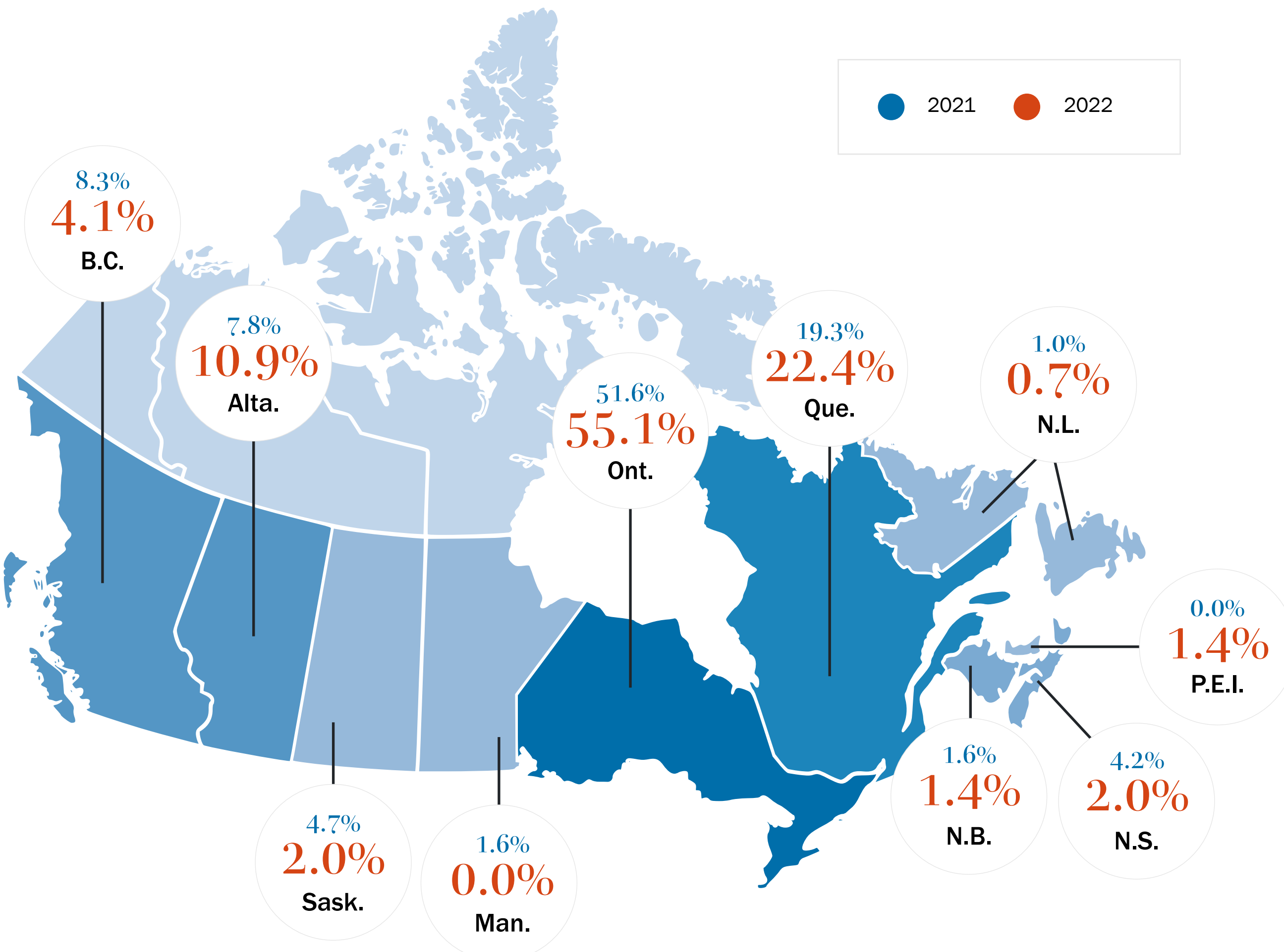


Companies headquartered in Ontario and Québec continue to attract the greatest number of venture capital financings in Canada. Notably, we observed a significant increase in the number of venture capital financings in Alberta as compared to previous years. This aligns with our experience advising clients, as we are seeing significant momentum in Alberta's tech sector.

> "Alberta's tech boom is no accident—it is a concerted effort by our leaders and community. We will continue to see the innovation ecosystem in Alberta expand, spurred on by the need to diversify our economy. Investments in energy, fintech and business services will lead the way in this region in 2023."
>
> - Geoff Kelsall, Senior Associate, Torys

In 2021, we observed a slight uptick in financings for companies located in the Prairies and Atlantic Canada, and our theory was that remote work allowed investors to virtually meet more with founders in non-traditional markets. This trend appears to have reversed course in 2022, correlating with a return to in-person work.

Figure 1.2) Deal Activity by Province[2]



Our data shows an increase in earlier stage financings as compared to later stage financings.

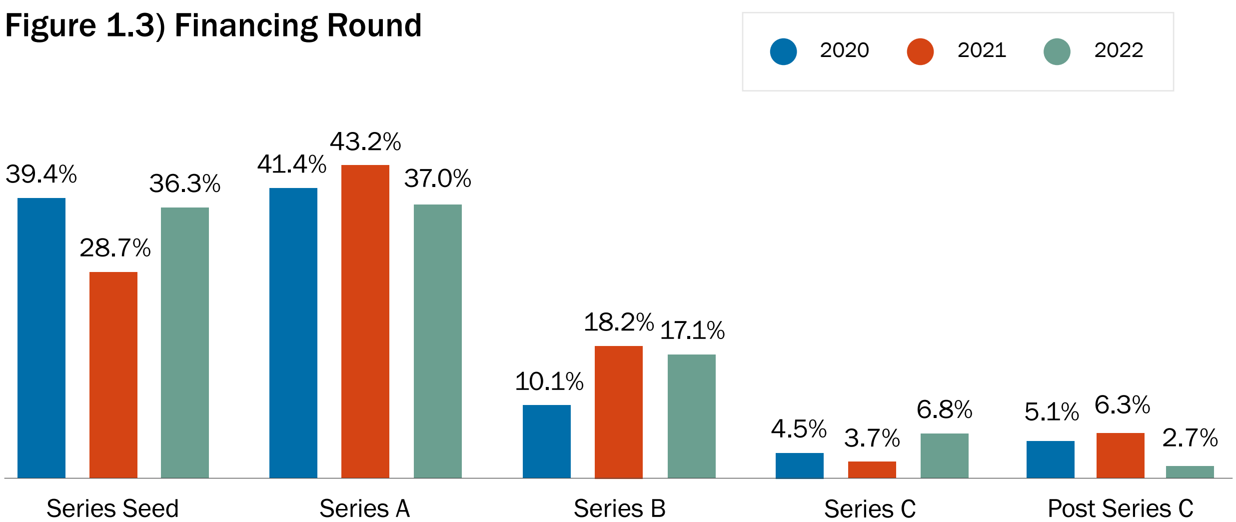
This is consistent with what we saw in our practice. Later stage companies that raised at relatively high valuations in 2021 had a challenging time raising in 2022, amid the market downturn. A higher valuation round was not likely given the market, and founders and investors in these companies were hesitant to undertake a down round. Furthermore, later stage companies that would historically be able to raise venture capital financings based on an impending IPO, had a harder time doing so

[2] The financing surveyed for the study do not include financings completed by companies headquartered in British Columbia that are incorporated under the *Business Corporations Act* (British Columbia) due to the absence of public access to such companies' articles.

given the downturn in the IPO market. This led to delayed financings or structured financings via convertible debt (often secured by the assets of the company). Comparatively, early-stage companies did not have the valuation overhang of an earlier round and could more easily attract financings based on the company's vision and team (albeit at relatively lower valuations as compared to prior years).

> "As many startups reach the end of their runway, they must decide whether to cut expenses, via layoffs and salary cuts, close-up shop, or try to sell via an M&A. Over the coming year, many will start with option three but if not successful will have to pick options one and eventually two. Nevertheless, we expect to see a significant increase in the amount of M&A activity starting in the second half of the year."
>
> - Matt Cohen, Founder and Managing Partner, Ripple Ventures

Figure 1.3) Financing Round

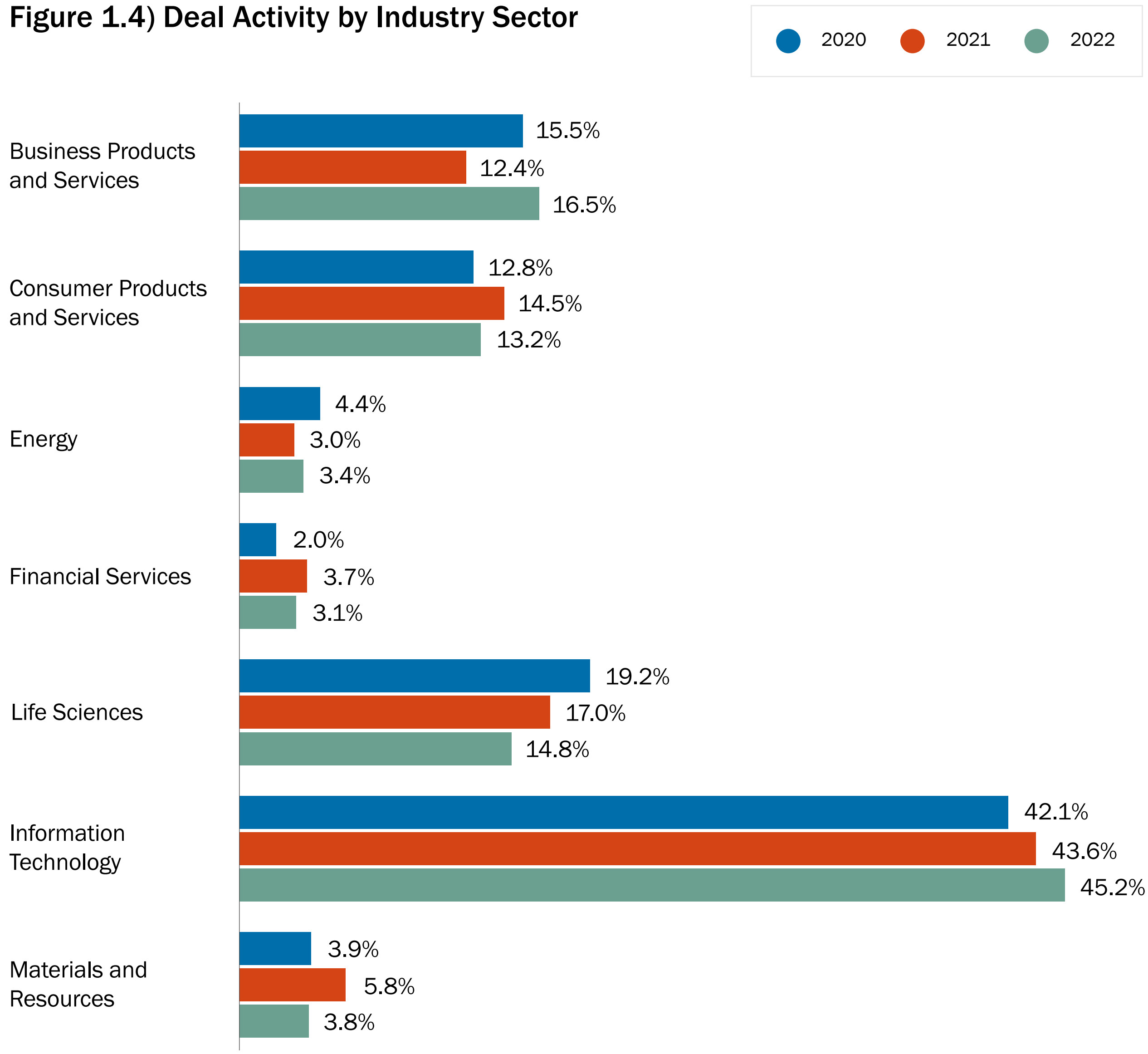


In 2022 (like in 2021 and 2020), there was a high concentration of Canadian deals in the Information Technology (45.2%), Business Products and Services (16.5%), Life Sciences (14.8%), and Consumer Products and Services (13.2%) sectors.

Information technology continues to drive financings in the startup and venture capital ecosystem. We expect this trend to likely continue throughout the year, whilst fintech will continue to have steady activity alongside the ongoing transformation of the financial services sector and, as Canada looks to refocus its strategy around climate targets, we will likely see an increase in clean energy deals, particularly in Alberta.

> "Economic downturns can present great opportunities for founders to meet market needs, particularly in areas that help businesses and consumers save time and money. In addition to fintech and cleantech, we will see a continuing emergence of proptech, AI and SaaS startups as 2023 progresses."
>
> - Abdullah Snobar, Executive Director and CEO, The DMZ/DMZ Ventures

Figure 1.4) Deal Activity by Industry Sector



Deal Terms for 2022 Financings

2) Seniority of Liquidation Preference and Dividends

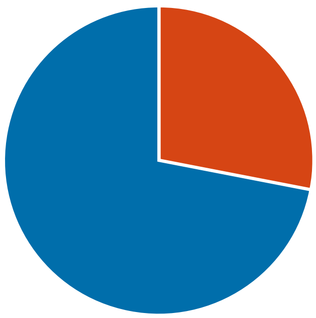
As the market began to slow down in 2022, companies had fewer financing options and, as a result, encountered an increase in investor-friendly terms.

For the first time in the history of this study, we tracked seniority of liquidation preferences separate from the seniority of dividends. Unsurprisingly, the number of financings with a senior dividend preference (28.3%) was lower than the number of financings that had a senior liquidation preference (29.6%). Startup companies are unlikely to issue dividends, so investors tend to be more focused on getting seniority with respect to liquidation preference than with respect to dividends.

> "Despite a turbulent year, the future of Canadian tech is bright. Funding is shifting towards early-stage start-ups, valuations now better reflect the fundamentals of companies and there is a greater emphasis on investing in innovations that help build a more inclusive and performing society."
>
> - Isaac Olowolafe, General Partner, BKR Capital

Figure 2.1) Dividend Preference

2022



71.7%

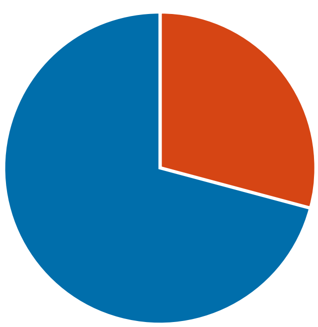
Pari Passu to Existing Preferred Shares

28.3%

Senior to Existing Preferred Shares

Figure 2.2) Liquidation Preference

2022



70.4%

Pari Passu to Existing Preferred Shares

29.6%

Senior to Existing Preferred Shares

3) Participating and Non-Participating Preferred Shares

The market environment created the conditions for an increase in the number of deals that contained participating preferred shares; yet the data was virtually unchanged from 2021. (95.9% contained non-participating preferred shares last year and 4.1% contained participating preferred shares; vs. 96.4% and 3.6% in 2021).

This is consistent with what we saw in our practice. While investors requested and obtained “sweeteners” as part of a financing (such as warrants and “pull-up” or “up-cycle” rights) we did not see a prevalence of participating preferred shares. This is likely because of the overly punitive impact participating preferred shares have on founders. Even in an investor-friendly environment, venture capitalists are sensitive to keeping founders fully engaged and motivated, which can be hampered by provisions such as participating preferred shares. It is likely that this trend will remain throughout 2023, as investors continue to focus on founder engagement and support amid wider economic instability.

In financings that included participating preferred shares, the participation rights in our data were evenly split between uncapped and capped. Over the past three years, we observed that companies raising money using participating preferred shares increasingly capped those participation rights to mitigate the dilutive effects of participating preferred shares. As the Canadian venture capital market matures, founders may incorporate these negotiating levers more into their strategy and sway the balance in favour of capped participation rights

Of the deals that had non-participating preferred shares, the majority (95.0%) included a 1x liquidation preference, with the remaining including a multiple liquidation preference (greater than 1x). This is consistent with what we saw for early-stage companies; however, we think the publicly-reported data may understate the increase in multiple liquidation preference structures for later stage companies. In our practice, we saw some insider deals structured with multiple liquidation preferences as part of convertible debt rounds. However, details of convertible debt rounds are often not reported (even if the round itself is reported) and thus not captured in our Report. If and when these convertible debt instruments convert in future equity rounds, there would be an uptick in multiple liquidation preferences for later stage companies.

> “Founders need to be conscious of tax implications from issuing different classes of shares, warrants and other rights, or convertible debt instruments. The timing and amount of taxes owed may differ significantly depending on the type of instrument, the specific terms, and the tax residence of the recipient.
>
> - Michelle Lu, Senior Associate, Torys

Figure 3.1) Preferred Shares Participation

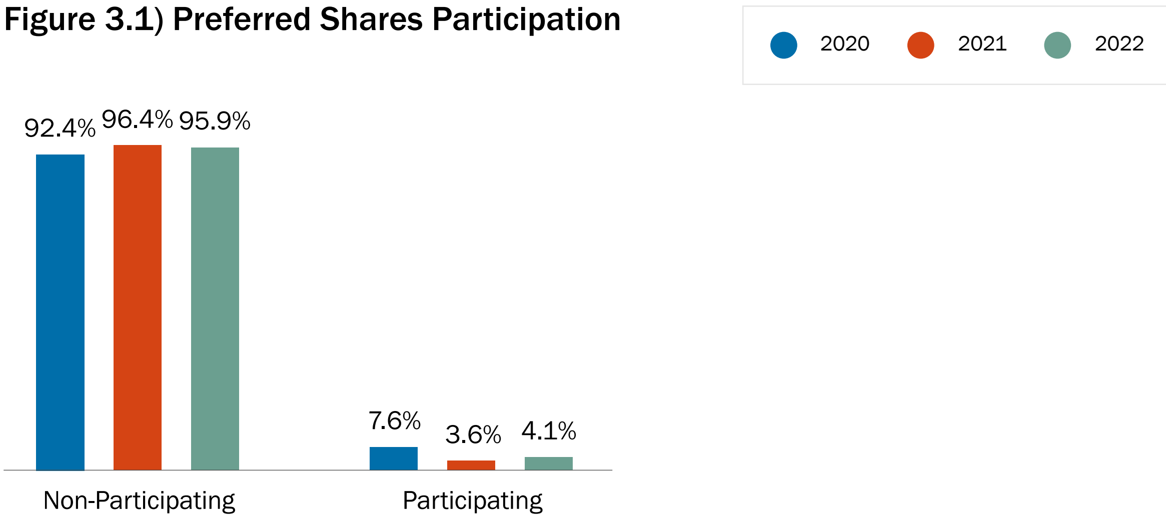


Figure 3.2) Percentage of Preferred Shares that are Capped vs. Uncapped

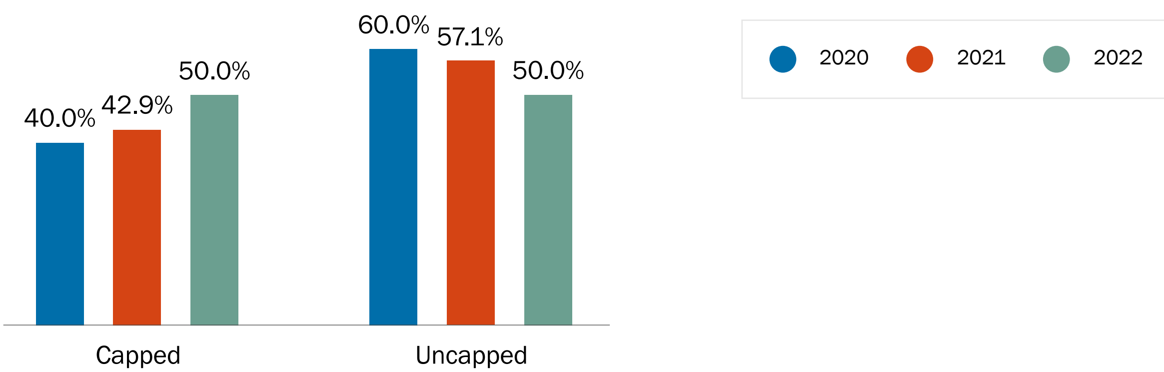
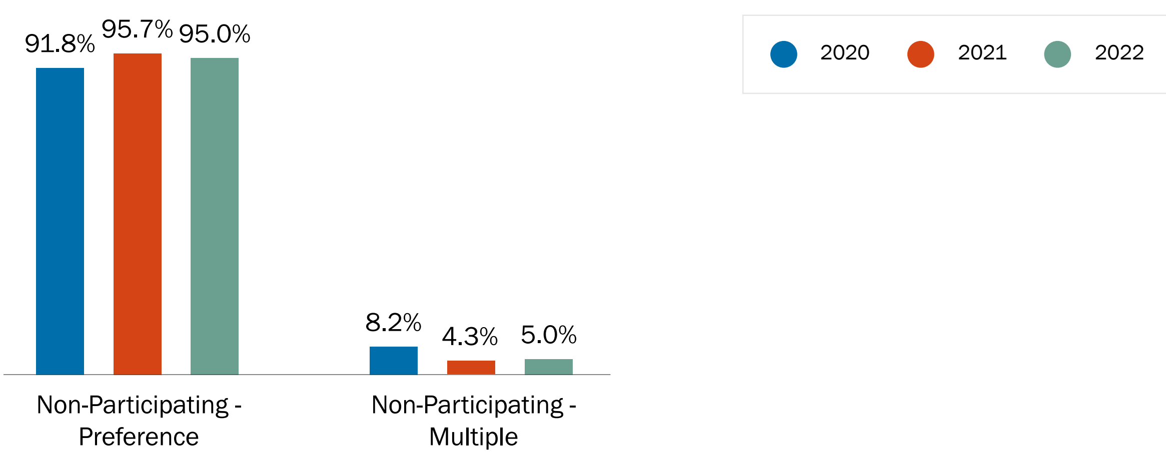


Figure 3.3) Preference Multipliers (Among Non-Participating Shares)



4) Valuations

The Canadian venture ecosystem was hit hard in 2022, with more than twice as many down rounds (9.0%) as in 2021 (3.7%) and 2020 (4.1%). Moreover, startups experienced a down round when raising money via insider rounds, bridge financings and other structures—which would not be captured in the publicly available data we surveyed.

Along the same lines, our experience suggests that transaction structures masked the level of down rounds. We are seeing financings at the same valuation but with more investor-friendly deal terms, implying a reduced valuation (even if the headline valuation is the same) since the investor is receiving more value for the same investment amount.

Lower valuations, and the increasing unpredictability around cash cycles and shortening runways that this brings, have impacted equity compensation packages, and caused many founders to decrease their workforce via layoffs and other cost-cutting measures, with many sectors impacted.

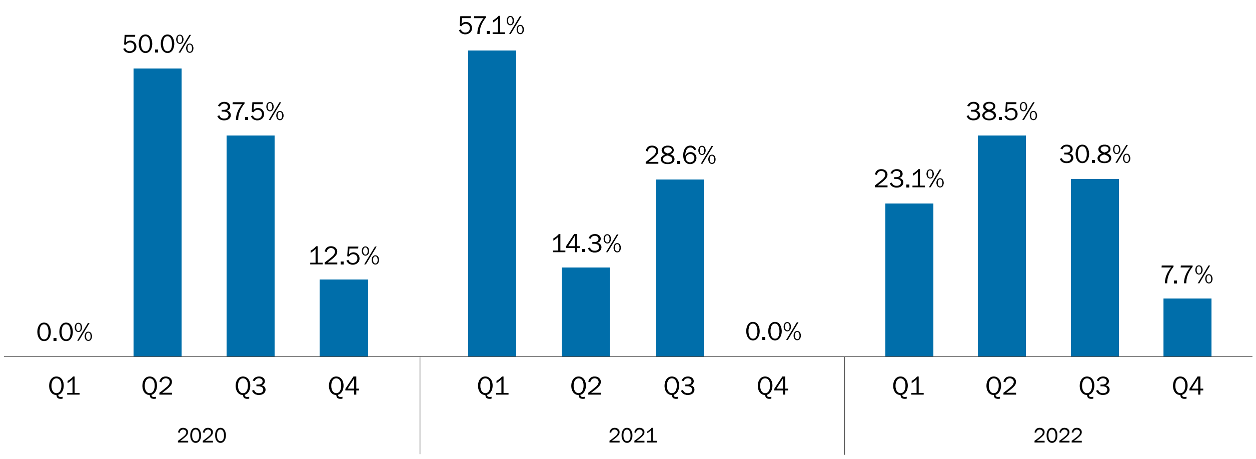
> "Unfortunately, layoffs in tech will likely continue this year, meaning fewer job opportunities and more conservative equity compensation packages for job seekers within the industry. As in 2022, layoffs will be driven by the need to extend runway. When deal numbers and dollars begin to rise in the future, founders will probably adopt a more muted approach to team growth."
>
> - Ellie Kang, Partner, Torys

Figure 4.1) Financing Valuations - Down Rounds as a Proportion of all Deals

4.1%	3.7%	9.0%
2020	2021	2022

The prevalence of down rounds tracks with the uncertainty created by the pandemic. Our data did not identify any down rounds completed in the first quarter of 2020. Throughout 2020 and early 2021 the incidence of down rounds ebbed and flowed, culminating in a downward trend in 2021 that ended with zero down rounds in that year's Q4. This is in contrast with an increase in down rounds in H1 of 2022 followed by a moderation in down rounds in H2, hopefully signaling the start of a moderation in the challenging financing environment.

Figure 4.2) Down Rounds

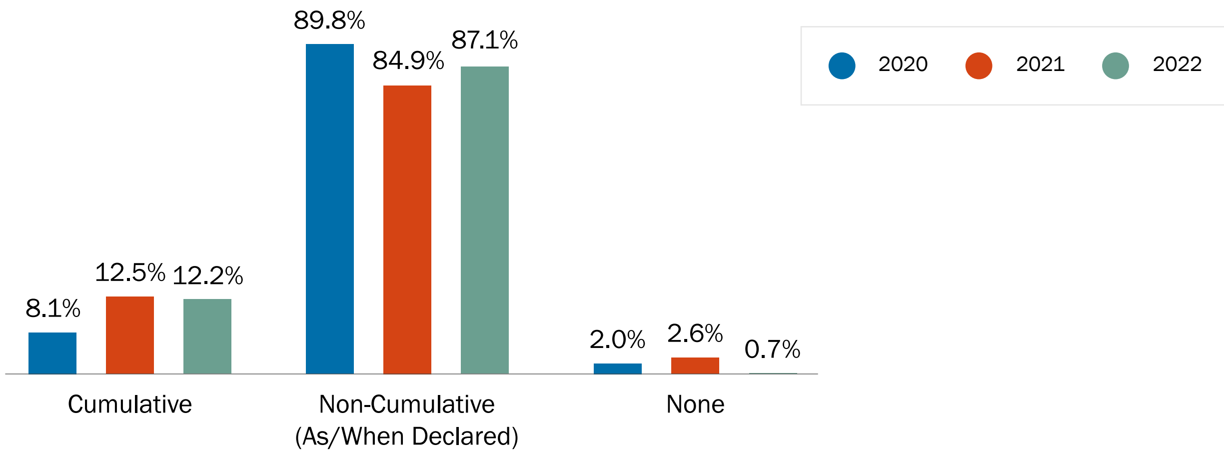


5) Dividend Entitlements

Consistent with the past two years, an overwhelming majority (87.1%) of the financings surveyed included a non-cumulative discretionary dividend, with 12.2% including a cumulative dividend. We would not expect these deal terms to materially change, even in times of decreasing valuations and investor-friendly deal terms.

To the extent that the preferred shares issued did include a dividend entitlement, 76.2% of these dividend entitlements did not include a stated dividend rate. Where a dividend rate was specified, the most common rate was 8%.

Figure 5.1) Dividend Entitlements for Preferred Holders



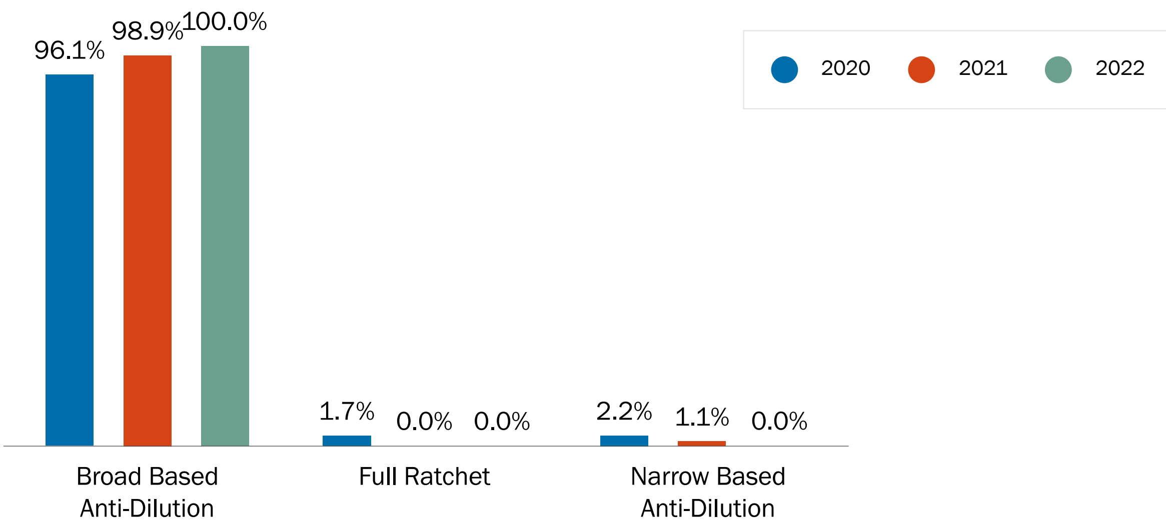
6) Anti-Dilution

Out of the three most common types of price-based anti-dilution protection (broad-based weighted average anti-dilution, narrow based weighted average anti-dilution, and full ratchet anti-dilution), in all of the deals that were reviewed as part of this year's study the preferred shares issued featured broad-based weighted average anti-dilution protection.

Although there was an increase in the number of down rounds in 2022, in our practice we saw anti-dilution rights waived by investors in favour of more negotiated deal terms among the investor group.

> "While all investors want the option to have anti-dilution rights, once these rights and their applicability across different classes of preferred shares are modelled out, we have seen investors waive anti-dilution rights in exchange for other negotiated terms and/or the clarity of a clean cap-table unencumbered by anti-dilution overhang."
>
> - Mohammed Muraj, Counsel, Torys

Figure 6.1) Anti-Dilution Protections

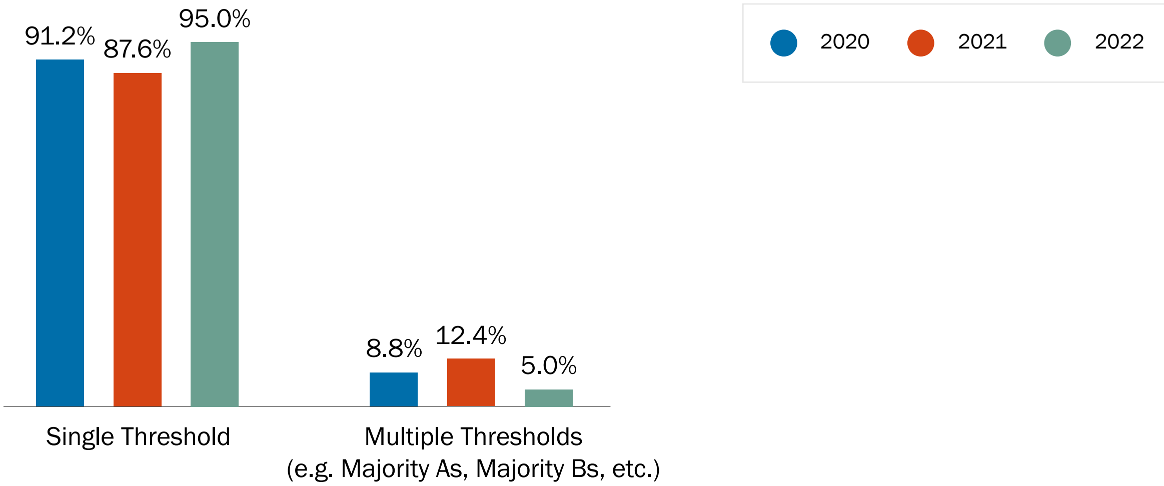


7) Protective Provisions

We analyzed the approval threshold required to waive the application of the protective provisions typically provided to the holders of preferred shares[3]. Most of the protective provisions (95.0%) could be waived by a single threshold of all classes/series of preferred shares, voting together as a single class. Only 5.0% required the approval of multiple classes/series of preferred shares, voting separately, to waive the application of the protective provisions.

[3] We note that a small number of the financings surveyed in 2022 did not include protective provisions in favour of the preferred shares. Although not market practice for venture backed financings, we suspect for many of these financings, the companies elected to include the protective provisions in their unanimous shareholders agreements (which are not part of the public record) instead of in the company's articles. Under most Canadian corporate statutes, a unanimous shareholders agreement, alongside a company's articles and by-laws, is treated as a 'constating document', which allows the company to bind all shareholders by its terms.

Figure 7.1) Single vs. Multiple Approval Thresholds (Protective Provisions)

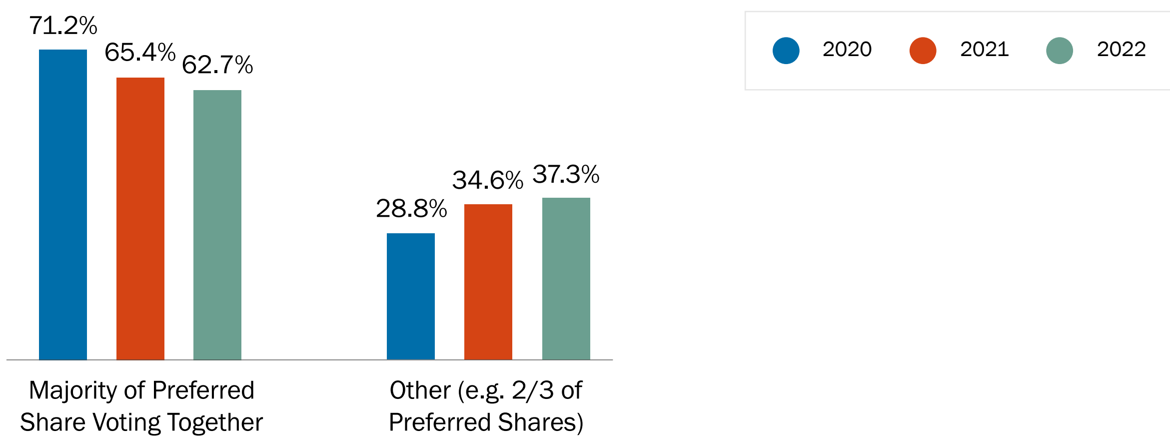


Given that the majority of deals were early stage, most of the startups do not have an expansive number of classes/series and have presumably not faced the issue of dealing with different classes/series of preferred investors. We expect startups to insist on maintaining a single waiver threshold for all investors, consistent with U.S. practices.

The most common threshold to waive protective provisions was a majority of the preferred shares, voting together as a single class. Where a single threshold was used, 62.7% of the companies surveyed set the threshold at a majority of the preferred shares, voting together as a single class.

In 2022, 37.3% included a threshold other than a majority of the preferred shares (e.g., 66 2/3% of the outstanding preferred shares), up from 34.6% in 2021 and 28.8% in 2020. This could reflect a trend towards more investors negotiating specific veto rights around protective provision, despite only holding a minority of the relevant class or series of preferred shares.

Figure 7.2) Type of Protective Provision Approval Threshold (Single Threshold Only)

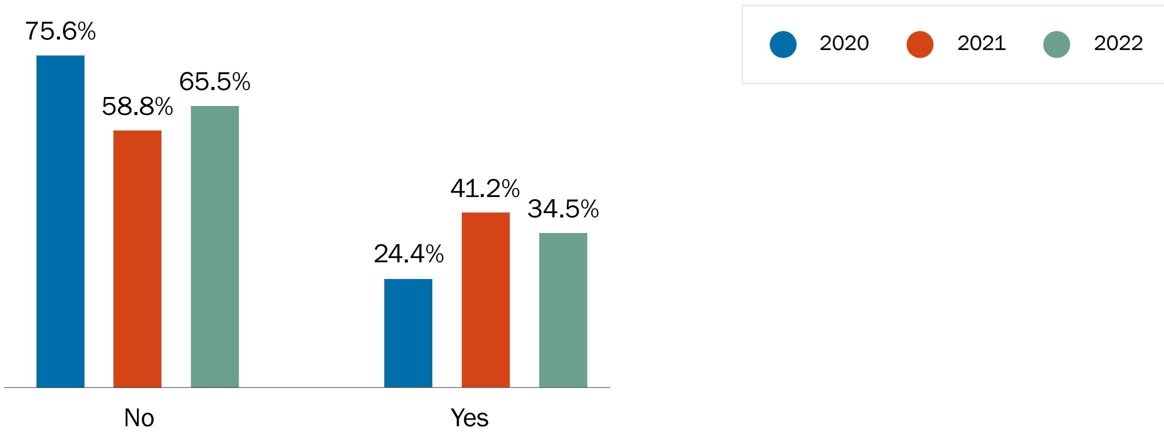


The majority (65.5%) of the 2022 financings surveyed included a single set of protective provisions for all classes/series of preferred shares. In comparison, only 34.5% of companies surveyed included new preferred shares with their own class/series-specific set of protective provisions (e.g., a specific set of protective provisions, where only the vote of most of the new class/series of preferred shares is required to waive the applicable protective provisions)[4]. This reflects the fact that most of the financings done in 2022 were early-stage financings, where we expect terms to track market standards more closely.

> "The continuing increase in early-stage financings throughout 2022 is no surprise. The Canadian early-stage sector is an exciting space and is going to see more investment over the coming years, particularly in AI where Canada is a global leader. As AI replaces traditional software across industries, we expect investment in AI to accelerate."
>
> - Jordan Jacobs, Managing Partner/Co-Founder, Radical Ventures

[4] This data excludes those financings that are the first round of preferred financing for a company, as there will only be one class or series and therefore only one set of protective provisions.

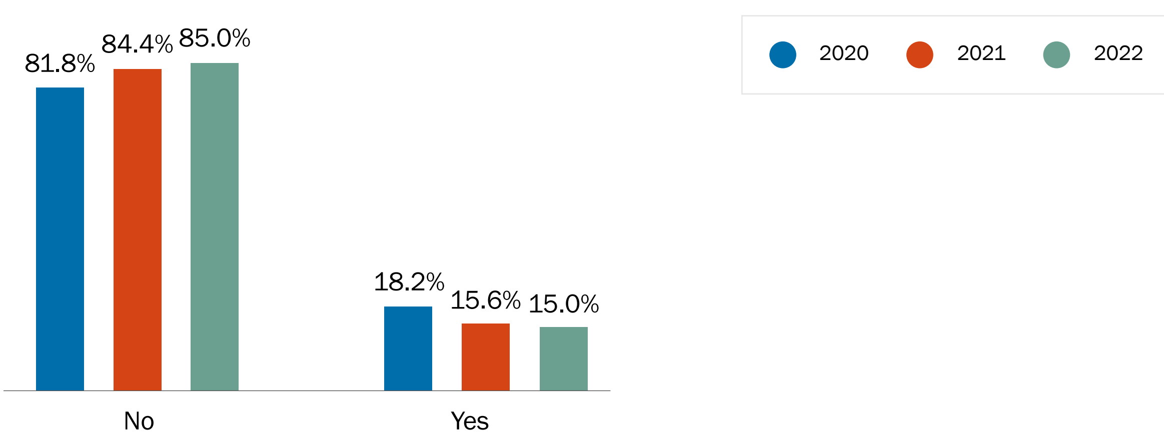
Figure 7.3) Class/Series Specific Veto Rights



8) Redemption

One in seven (15.0%) of the financings surveyed included redeemable preferred shares, either at the option of the shareholder or of the company. This remains higher than the numbers reported in U.S. financings during the same period where only 2% to 8% included a redemption feature[5]. The lower ratio in the U.S. reflects the maturity of its ecosystem, where market norms and higher levels of competition between investors to participate in financing rounds make redemption rights less popular.

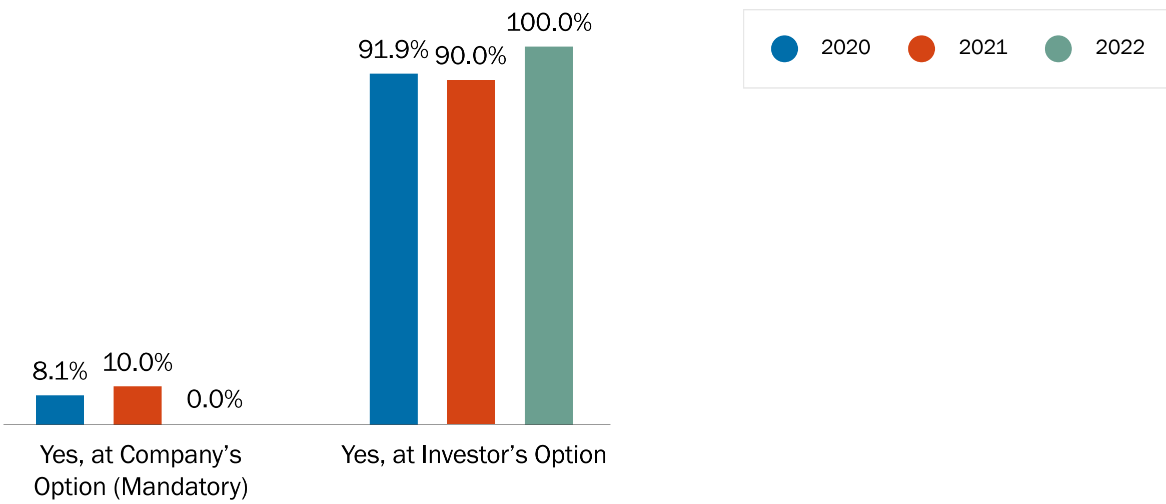
Figure 8.1) Redeemable Preferred Shares



[5] U.S. Deal Studies.

In deals where redemption rights were included, all the preferred shares issued were at the election of the preferred shareholder rather than the company. This was often after a specific time had elapsed, for example, 5-7 years from the date of the financing.

Figure 8.2) Preferred Shares Redemption Option (Among Redeemable Shares)



> "Venture investing is cyclical, and right now we are firmly in an investor-friendly pattern for deal terms. We will likely not see a return to hyper founder-friendly terms for the next couple of years."
>
> - Wendes Keung, Associate, Torys

9) Qualified IPO Thresholds

The most common threshold for a qualified IPO was C$50 million, which was also the median threshold. When the articles were denominated in U.S. dollars, the most common qualified IPO threshold was US$50 million, which again was also the median threshold. This term is consistent with prior years. Given the relative freeze of IPO markets in Canada during 2022, we would not expect to see much movement on this threshold.

For context, the above qualified IPO thresholds are consistent with the average IPO size for Canadian markets for the same period (based on data reported by Bloomberg).

Figure 9.1) Qualified IPO Thresholds by Currency

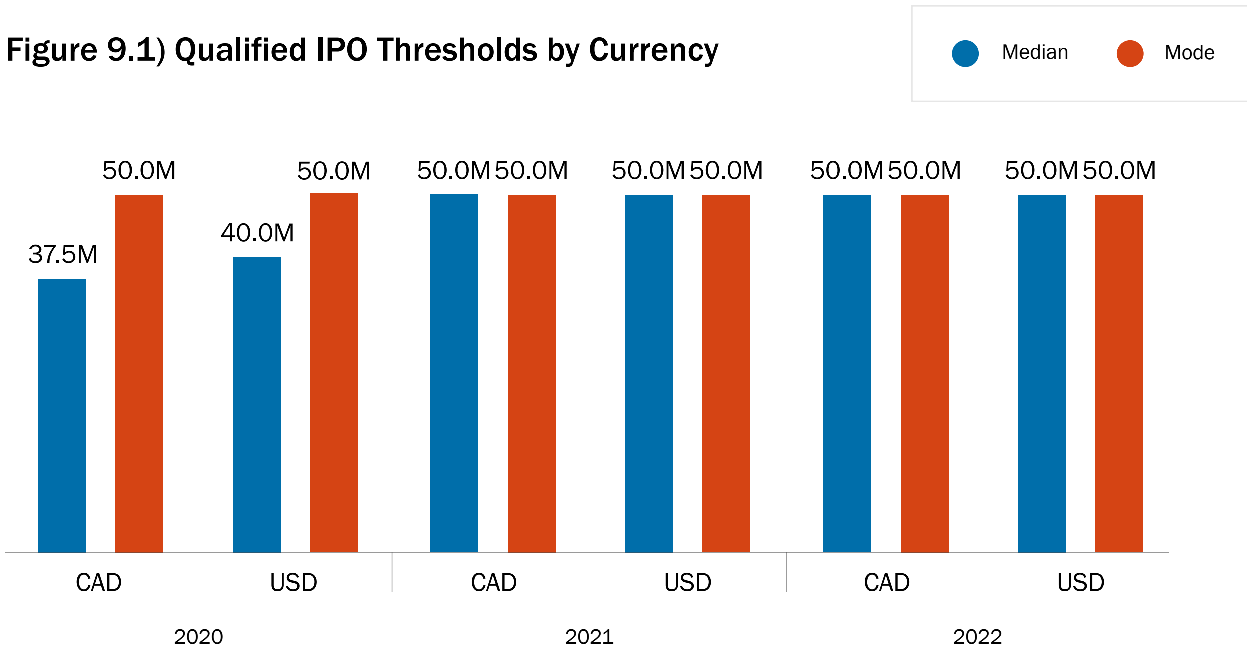


Figure 9.2) Qualified IPO Threshold Types

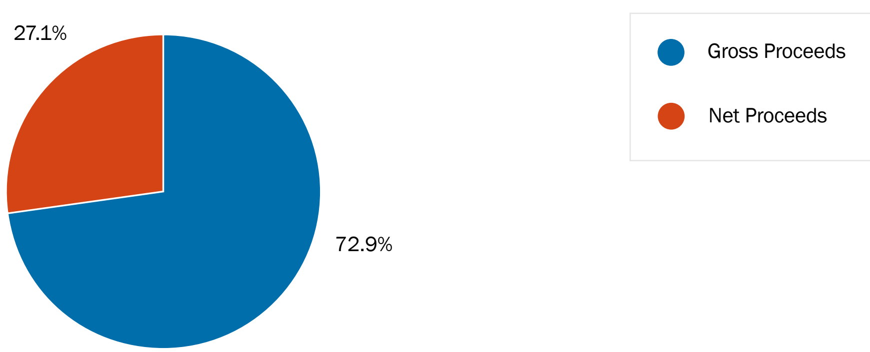


Figure 9.3) Qualified IPO Threshold Distribution of Share Price Multiples

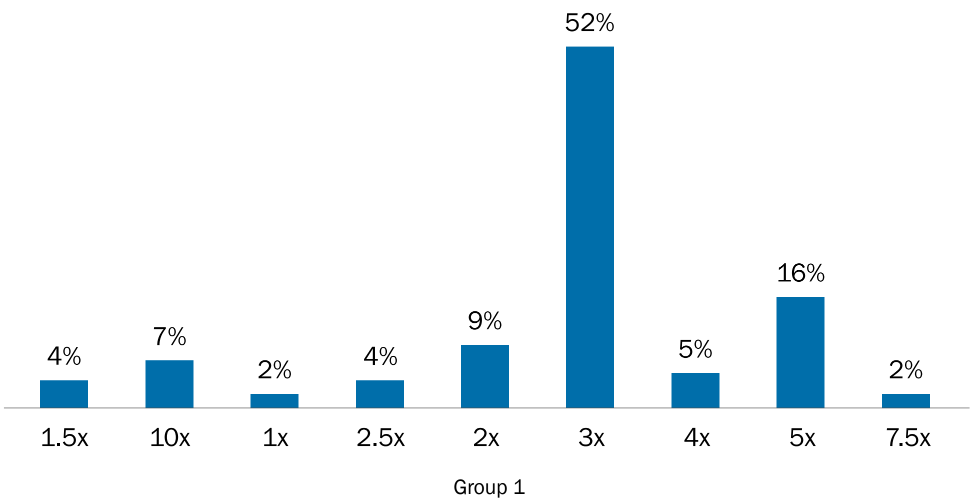
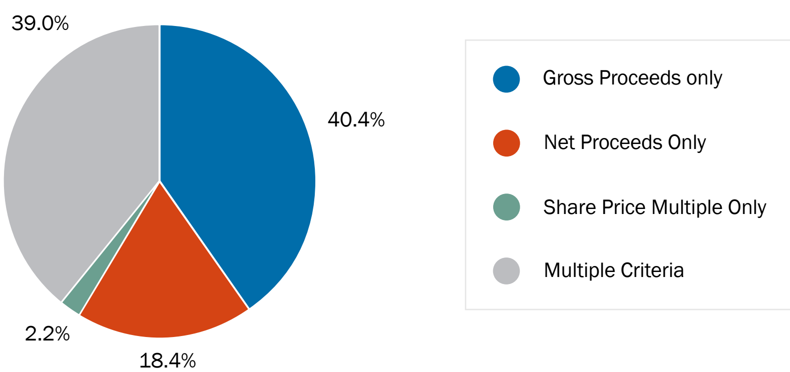


Figure 9.4) Qualified IPO Threshold Types



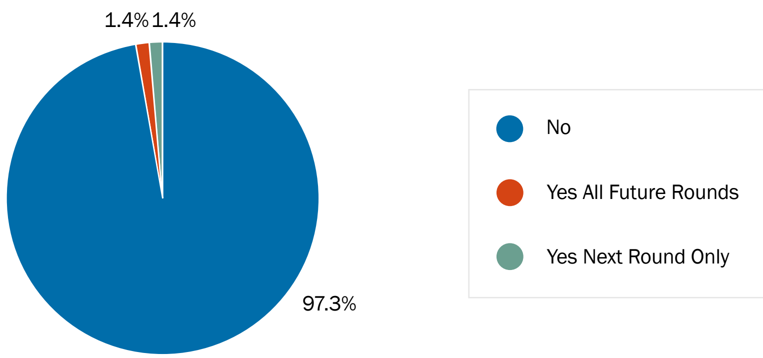
10) Pay-to-Play

2.8% of the deals surveyed in our Report contained pay-to-play provisions, which lags slightly behind the 4%-7% figure for U.S. deals[6]. These were split evenly between the pay-to-play provision applying to all future rounds vs. the next financing round only. These provisions are intended to be used to incentivize other investors to agree in advance to participate in future financings. In our network, we saw many debates around how to institute a pay-to-play regime even if it was not codified in

[6] U.S. Deal Studies.

the governance documents. We expect these discussions to continue and expect investors to work together to synthetically achieve a pay-to-play structure by incentivizing those that choose to invest (e.g., through warrants and up-cycle rights).

Figure 10.1) Pay-to-Play



11) Authorized Share Capital

2022 saw a continued shift towards companies capping the total amount of authorized shares.

Unlike in the U.S., not all venture-backed Canadian companies cap the number of authorized shares of a particular class or series. In Canada, companies have two options with respect to their authorized share capital. A specific class/series of shares can either be:

(i) uncapped (in which instance the company is authorized to issue an unlimited number of such shares without further amending its articles); or

(ii) capped (in which instance the company would need to amend its articles to authorize the issuance of shares beyond the stated cap).

In 2022, for those companies surveyed, the authorized capital of preferred shares issued was in favour of capped (62.2%) as compared to uncapped (37.8%). When just looking at those companies headquartered in Ontario, the majority (73.8%) of the companies surveyed capped the authorized capital of their preferred shares.

Almost two-thirds of companies surveyed (56.8%) left the authorized capital for their common shares uncapped, with 43.2% placing a cap on their authorized number of common shares. For companies headquartered in Ontario, almost half (51.9%) placed a cap on the authorized number of their common shares.

The large number of uncapped authorized preferred shares is likely a reflection of the practice taken by the wider Canadian market, outside of the startup and venture capital space, to have uncapped share authorizations. As the Canadian market continues to evolve, we anticipate more companies will place a cap on their authorized capital to align with U.S. practices.

Figure 11.1) Capped vs. Unlimited Preferred Shares

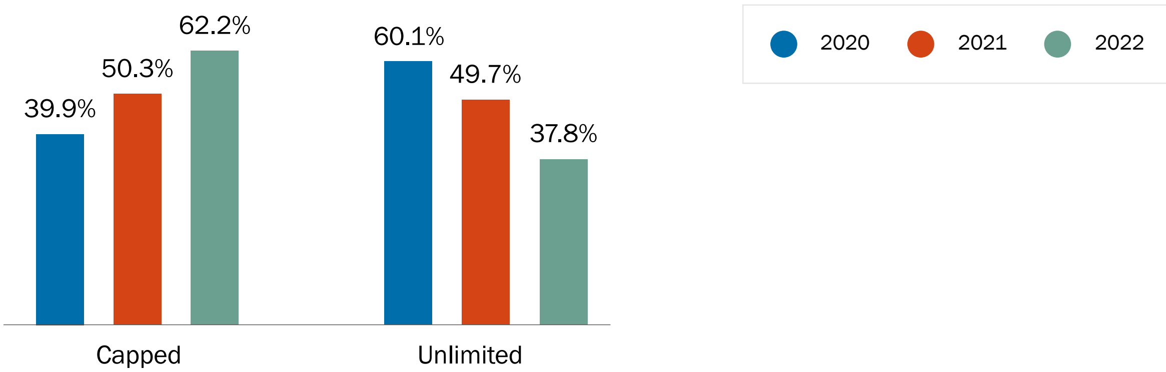
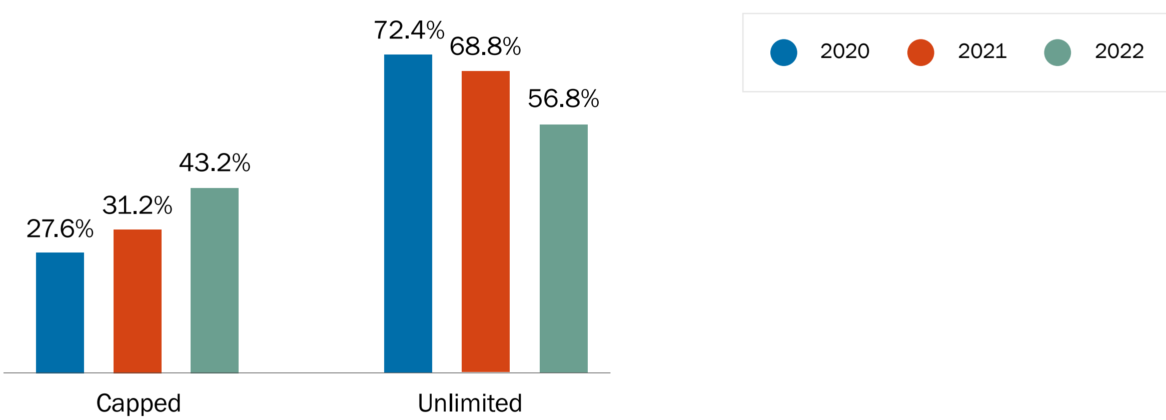


Figure 11.2) Capped vs. Unlimited Common Shares



12) Limitations on Class Voting

Under Canadian corporate statutes[7], a company can limit or remove the right of its shareholders to vote separately as a class or series upon the following enumerated actions by adding specific language to its articles:

(i) to increase or decrease the maximum number of authorized shares of such class, or increase any maximum number of authorized shares of a class having rights or privileges equal or superior to the shares of such class;

(ii) to effect an exchange, reclassification or cancellation of all or part of the shares of such class[8]; or

(iii) to create a new class of shares of equal or superior to the shares of such class.

This allows companies to raise financing without necessarily going to each class of shareholders for approval. This is particularly useful to investors where the common shareholders hold a relatively small portion of the company and the investors have negotiated the ability to make decisions

Nearly three-quarters (75.5%) of companies surveyed place limitations on class voting on all classes/series of shares (including the newly issued preferred shares), while 10.9% of such companies only placed such limitations on their common shares.

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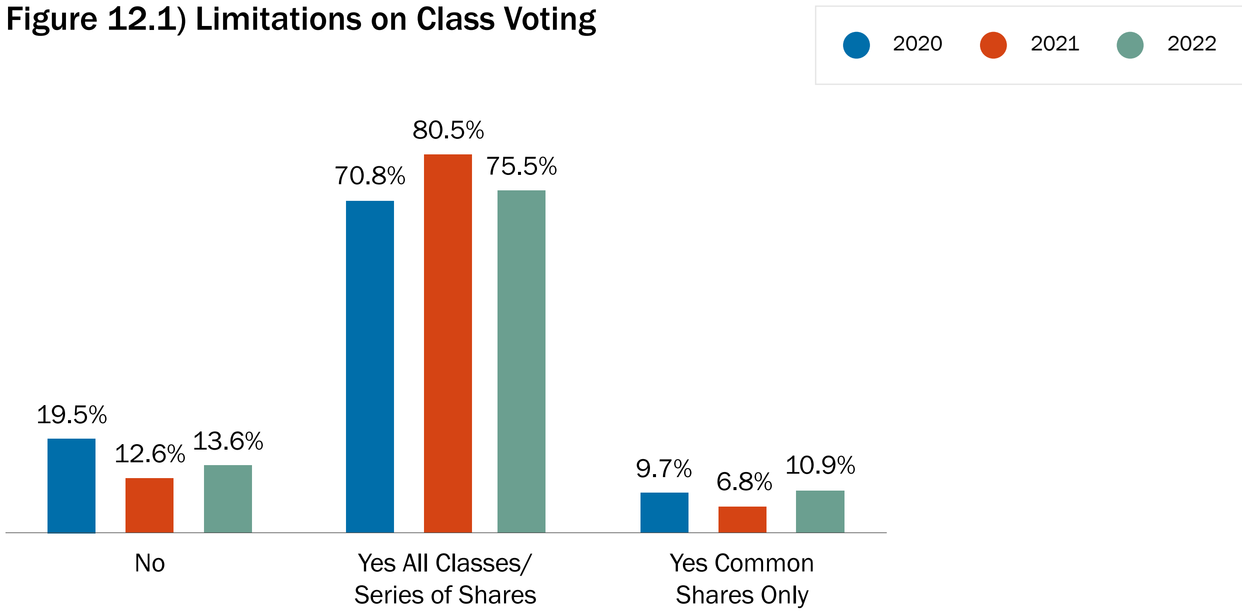
[7] For example, see OBCA s.170(1) and CBCA s.176(1).

[8] We note that the CVCA Model Documents specifically indicate that "although the CBCA and provincial corporate statutes allow for a carve-out from the class voting rights in respect of an exchange, reclassification or cancellation of all or part of the shares of a class, including this carve-out can be considered somewhat extreme, as the shares of a particular class may be cancelled without a vote of the shares of that class."

Figure 12.1) Limitations on Class Voting



2022 Financings Snapshot

Deal Term	2022 Financings	U.S. Deal Studies
Liquidation Preference		
Senior Liquidation Preference	29.6%	18% to 24%
Pari Passu (to other preferred shares)	70.4%	75% to 82%
Participation Feature		
Non-Participating Preferred	95.9%	90% to 97%
Participating Preferred	4.1%	3% to 10%
Participation Rights – Capped	50.0%	40% to 44%
Participation Rights – Uncapped	50.0%	56% to 60%
Liquidation Preference		
1x Liquidation Preference	95.0%	N/A
More than 1x Liquidation Preference	5.0%	N/A

Deal Term	2022 Financings	U.S. Deal Studies
Dividends[9]		
Non-Cumulative (as/when declared)	87.1%	51%
Cumulative Dividends	12.2%	2% to 6%
No Dividend Entitlements	0.7%	0% to 43%
Dividend Rate	8%[10]	N/A
Up-Rounds vs. Down-Rounds		
Up-Rounds	49.3%	59% to 77%
Down-Rounds	9.0%	10% to 32%
Anti-Dilution Protections		
Broad-Based Weighted Average	100%	98% to 100%
Narrow-Based Weighted Average	0.0%	0% to 1%
Full Ratchet	0.0%	0% to 1%
Protective Provisions		
Approval Thresholds		
Single threshold (all preferred shares voting together, as a single class)	95.0%	N/A

[9] Where a dividend rate was specified, both the mode and median dividend rate was 8%.

Deal Term	2022 Financings	U.S. Deal Studies
Multiple threshold (multiple classes / series of preferred shares voting, separately as a class and/or series)	5.0%	N/A
For Single Threshold, the most common threshold used		
Majority of Preferred Shares (voting together as a single class)	62.7%	N/A
Other (e.g. 66 2/3% of the preferred shares)	37.3%	N/A
Class / Series Specific Veto Rights		
All classes / series of preferred shares provided a single set of protective provisions	65.5%	N/A
New class / series of preferred shares provided a stand-alone set of protective provisions	34.5%	N/A
Redemption		
Non-redeemable preferred shares	85.0%	90% to 97%
Redeemable preferred shares	15.0%	3% to 10%
Redemption at company's option	0%	N/A
Redemption at investor's option	100%	N/A

Deal Term	2022 Financings	U.S. Deal Studies
Qualified IPO Threshold		
Most Common Qualified IPO Threshold (when reported in CAD)	$50,000,000	N/A
Median Qualified IPO Threshold (when reported in CAD)	$50,000,000	
Most Common Qualified IPO Threshold (when reported in USD)	$50,000,000	N/A
Median Qualified IPO Threshold (when reported in USD)	$50,000,000	
Pay-to-Play		
Pay-to-Play provision included	2.8%	4% to 7%
Authorized Share Capital		
Authorized Capital for Preferred Shares		
Unlimited	37.8%	N/A
Capped		N/A
All Canada:	62.2%	
Ontario:	73.8%	

Deal Term	2022 Financings	U.S. Deal Studies
Authorized Capital for Common Shares		
Unlimited	56.8%	N/A
Capped		N/A
All Canada:	43.2%	
Ontario:	51.9%	
Limitations on Class Voting		
All classes / series subject to limitations on class voting	75.5%	N/A
Only common shares subject to limitations on class voting	10.9%	N/A
No limitations placed on class voting	13.6%	N/A

About Torys' Emerging Companies and Venture Capital Group

More than legal advisors, we are strategic partners to our clients in the emerging companies ecosystem, giving both founders and investors deep insight and experience and a unique cross-border presence to support their goals. Whether on standalone projects, a phase of a larger project, or ongoing assignments, we support early- to late-stage companies in all aspects of the creation, acquisition and commercialization of their business. We also help investors realize their investment strategies in high-growth companies. We bring together leading transactional and sector knowledge from across the firm to advise VC funds, strategic investors, growth equity funds, private equity funds and pension funds. From fund formation and shareholder arrangements to buyouts and other exits, we work closely with investors on some of their most innovative work.

About Torys LLP

Torys is a respected international business law firm with a reputation for quality, innovation and teamwork. Clients look to us for their largest and most complex transactions, as well as for ongoing matters in which strategic advice is key.

Methodology

This study analyzes the preferred share deal terms across financings for 159 Canadian headquartered startups that raised at least $500,000 on venture or venture-like terms between January 1, 2022 and December 31, 2022. Criteria included all categories of publicly reported preferred share venture financings, from series seed through to later stage financings. We have compared this data to our 2020 and 2021 Venture Financing Reports.

While we identified 716 publicly reported venture-backed financings for the 2022 calendar year, only 159 financings satisfied the criteria outlined above and had publicly accessible articles. In analyzing the financings to arrive at the 159 analyzable financings, the following financings were excluded from the study:

- non-preferred share financings, including common share financing rounds, convertible note and SAFE financing rounds;
- financings completed by companies governed by the *Business Corporations Act* (British Columbia), as the share terms for these companies are not publicly available. However, preferred share financings completed by companies that are headquartered in British Columbia and governed by another corporate statute, including the *Canada Business Corporations Act*, were included; and
- financings in which the preferred shares issued to investors departed significantly from standard venture style preferred share terms contemplated by the Canadian Venture Capital and Private Equity Association's model legal documents.

As the study solely focuses on legal terms negotiated in preferred share financings, certain data points may not perfectly align with other reports published on the Canadian venture capital market, which look at a broader range of financings (including SAFEs, convertible notes and common share financings).

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Acknowledgment
Many thanks to Dustin Paterson, Nicole Beausoleil, Mackenzie Birchard, Rivannah Brown, Mitchell Hayes, Sarah Sanders and Emily Stauffer for their contributions.

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