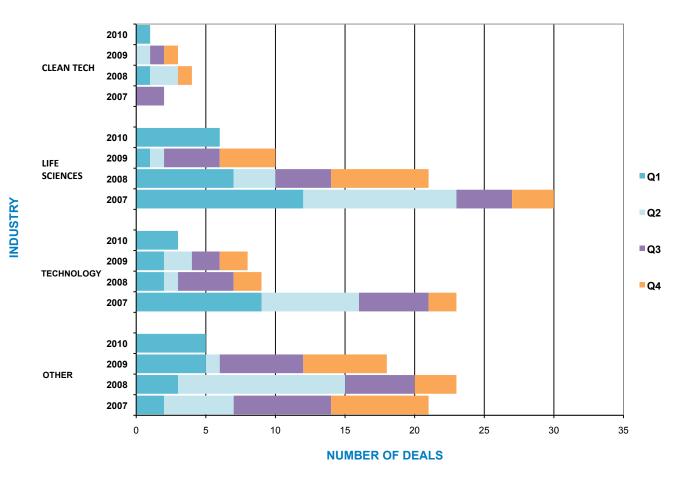


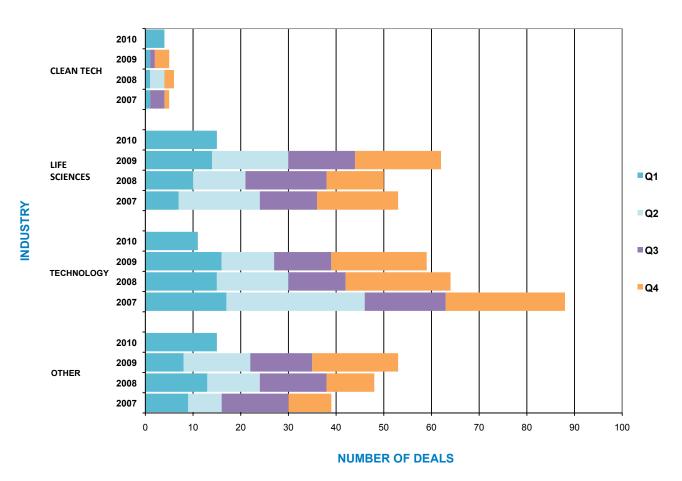
FOLEY HOAG LLP VENTURE PERSPECTIVES EMERGING ENTERPRISE CENTER AT FOLEY HOAG MAY

MAY 2010

Quarterly Review of Venture Capital Financings: First Quarter 2010

New England Series A Deal Activity





New England Series B and Later Round Deal Activity

The Numbers: Maybe Belief Makes Reality

Dave Broadwin

While no one knows what the future will bring, it is surely an optimistic sign when people start behaving as if they think the future looks good. A measure of optimism is the consumer sentiment number that the government keeps and publishes from time to time. Nobody keeps a similar number for our industry, but I think sentiment is revealed by what VCs are actually doing.

My first candidate for this type of sign is things that buck a negative trend. If, as Michael Mandel has pointed out, the telecom industry is adding jobs at a time when the rest of the economy is losing them, it is a pretty sure sign of health in the telecom sector.

My second candidate for this type of sign is actions that seem to implicate optimistic views about the future. An increase in employment is an obvious one. Another obvious one is an increase in spending. Increased investment activity also fits the bill.



As I write this article, macro trends don't look so good, despite the U.S. economy reporting decent growth. Portugal, Ireland, Greece and Spain are in deep trouble, with massive implications for the world economy. The Dow fell 1000 points in intra-day trading. On an industry level, the number of exits at valuations below invested dollars is staggering (round numbers nine out of 29 deals with disclosed valuations in Q1 according to Thomson Reuters and the National Venture Capital Association). While there were nine IPOs of venture-backed companies in Q1 (an increase over all of last year), the pace is still way below 2007 (which was no barn burner).

Selected Deals

Among the Series B and later stage deals reported on by us, just less than half were down rounds and a handful were even with the prior round. Many, perhaps all, of these investments were made before the great recession, and the flat and down valuations reflect the carnage that has already taken place. In a sense, they predict the future because the prices anticipate an exit, but they reveal more about the predictions made two or more years ago than they do about two years from now. Investors would not be making these bets, if they did not think they would make a good return on them, but it is hard to measure any particular degree of optimism.

By way of comparison, Series A rounds reported on by us continue to look like regular Series A rounds. Holding aside the life science category, the tables show most VCs getting around one-third of the companies they invest in. In life science deals the percentage is higher. At first blush this situation seems to fly in the face of conventional expectation that VCs take about 50% in the A round. A couple of possible explanations for this are (1) entrepreneurs are taking companies further on seed and angel money than they have in the past and are able to demand higher valuations and (2) these companies are more capital efficient and are therefore able to get to an exit sooner and on less money than in the past. Either explanation seems to me to bode well for investors and entrepreneurs.

Selected Deal Terms

This quarter we decided to focus on four terms that seem to us to reveal more about the nature of the market than other terms. These are dividends, participation, redemption and pay-to-play.

With respect to later stage deals, in each case (except for cumulative dividends) results are roughly in line with prior quarters. With respect to cumulative dividends in later stage deals, the number has risen steadily since last year reaching almost 70% of all Series B and later stage deals in New England. When you consider this fact in light of the high percentage of down and flat rounds for later stage deals, it appears to confirm the idea that these companies were overvalued in the past rather than that VCs are not optimistic about exits in the future.

This conclusion is reinforced if you consider it in the light of Series A deals in New England, in which the incidence of cumulative dividends, participation, and redemption are way down compared to last year. Participating preferreds appeared in slightly more than 40% of the Series A deals we looked at. Perhaps more surprisingly, but consistent with the trend, is that redemption provisions appeared in only about half the deals, compared to about 70% in the prior quarter and almost all deals in the quarters before that. (By way of comparison, redemption provisions appeared in about 65% of Series B and later stage deals, consistent with prior quarters.)

The diminution in the amounts of participating preferreds and in cumulative dividend provisions in early stage deals strongly suggests optimism on the part of investors. This is all good news for entrepreneurs and for the industry in general. Although it is not clear to me, the decrease in redemption provisions may be due to recent concerns about the accounting treatment of preferred stock with these provisions.

Activity Levels

In another piece of optimistic news, activity levels for Series A investments in New England measured by number of deals are up both compared to last quarter and the first quarter of 2009. The picture is a little more mixed for Series B and later round deals. In this case the number of investments increased compared to the first quarter of 2009 but



slowed considerably from the last quarter. Nationally, Series A investments and Series B investments were up compared to the prior year but down from the prior quarter.

It is very difficult to draw conclusions from changes occurring from one quarter to the next, but looked at over longer periods of time, sizable changes probably do indicate trends. The fact that there has been a significant increase, across the board, in the first quarter of 2010 from the first quarter of 2009, indicates a strong positive trend.

Conclusion

This survey indicates that there is a fairly significant divergence in terms between Series A rounds and later rounds, with Series A getting much better terms (as a general proposition). Investors don't seem to be buying as large a percentage of Series A companies, as one might expect. In addition, the number of Series A investments is up significantly over the first quarter of 2009. This does not mean that the industry is back to where it was in 2007. But, in light of all the turmoil in the world economy, the volatility in the Dow, and huge trade and budget deficits the U.S. is running, it looks a lot like investors believe that start-ups will thrive despite a lot of negatives, and this is a pretty good sign of health in the entrepreneurial sector of the economy.





Selected New England Series A Deals

First Quarter 2010

Pre-Money and Post-Money Valuation

| Company | Amount Raised | Series A preferred stock as a percentage of authorized common stock | Implied Pre-Money Valuation | Implied Post-Money Valuation | | | | |
|-------------------------------------|---------------|--|--------------------------------|---------------------------------|--|--|--|--|
| CLEAN TECH | | | | | | | | |
| General Compression, Inc. | \$23,000,000 | 31% | \$52,000,000 | \$75,000,000 | | | | |
| | | LIFE SCIENCES | | | | | | |
| Excelimmune, Inc. | \$2,000,000 | 50% | \$2,000,000 | \$4,000,000 | | | | |
| RA Pharmaceuticals, Inc. | \$27,600,000 | 45% | \$6,100,000 | \$33,700,000 | | | | |
| Rhythm Pharmaceuticals, Inc. | \$21,000,000 | 70% | \$9,000,000 | \$30,000,000 | | | | |
| | | TECHNOLOGY | | | | | | |
| 3Play Media, Inc. | \$600,000 | 12% | \$4,300,000 | \$4,900,000 | | | | |
| BuyWithMe, Inc. | \$5,500,000 | 31% | \$12,500,000 | \$18,000,000 | | | | |
| Dynamic Decision Technologies, Inc. | \$2,600,000 | 36% | \$4,700,000 | \$7,300,000 | | | | |
| Fluent Mobile, Inc. | \$2,500,000 | 18% | \$11,200,000 | \$13,700,000 | | | | |
| North End Technologies, Inc. | \$4,200,000 | 51% | \$4,200,000 | \$8,400,000 | | | | |
| Postabon, Inc. | \$1,500,000 | 25% | \$4,500,000 | \$6,000,000 | | | | |
| | | OTHER | | | | | | |
| CyPhy Works, Inc. | \$1,800,000 | 12% | \$11,400,000 | \$13,200,000 | | | | |



Selected New England Series B and Later Round Deals

First Quarter 2010

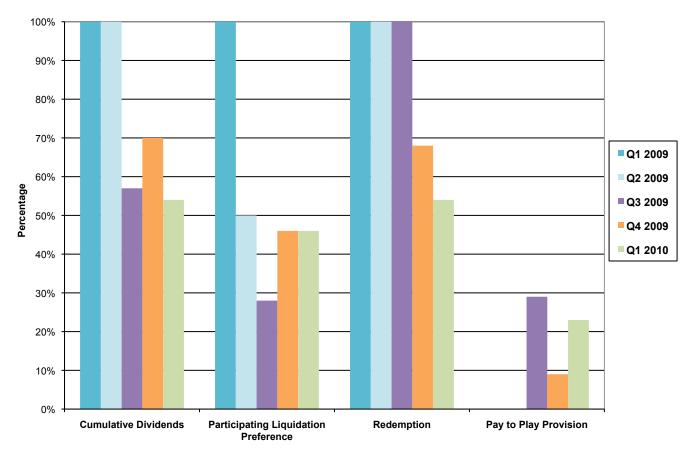
Pre-Money and Post-Money Valuation

| Company | Most recent round of preferred stock | Amount raised | Percentage of Company owned by most recent round of preferred holders | Pre-money valuation of Company | Post-money valuation of Company | Up or Down Round | | | | |
|------------------------------|---|---------------|---|--------------------------------------|---------------------------------------|---------------------|--|--|--|--|
| CLEAN TECH | | | | | | | | | | |
| Joule Unlimited, Inc. | В | \$12,500,000 | 29% | \$73,200,000 | \$103,200,000 | Up | | | | |
| LIFE SCIENCES | | | | | | | | | | |
| Alnara Pharmaceuticals, Inc. | В | \$35,000,000 | 46% | \$41,300,000 | \$76,300,000 | Up | | | | |
| Artisan Pharma, Inc. | В | \$24,000,000 | 29% | \$57,600,000 | \$81,600,000 | Down | | | | |
| Fluidnet Corporation | В | \$9,900,000 | 37% | \$16,700,000 | \$26,600,000 | Down | | | | |
| Intrinsic Therapeutics, Inc. | E | \$20,600,000 | 24% | \$65,800,000 | \$86,400,000 | Down | | | | |
| NABsys Inc. | В | \$7,000,000 | 36% | \$12,600,000 | \$19,600,000 | Up | | | | |
| Rhythmia Medical, Inc. | B-1 | \$2,700,000 | 6% | \$41,000,000 | \$43,700,000 | Up | | | | |
| Seahorse Bioscience, Inc. | D-2 | \$12,000,000 | 11% | \$100,800,000 | \$112,800,000 | Even | | | | |
| Smartcells, Inc. | D | \$4,000,000 | 4% | \$88,500,000 | \$92,500,000 | Up | | | | |
| | | | TECHNOLOGY | | | | | | | |
| Aternity, Inc. | с | \$5,000,000 | 11% | \$40,100,000 | \$45,100,000 | Up | | | | |
| Brightcove, Inc. | D | \$12,000,000 | 3% | \$340,400,000 | \$352,400,000 | Down | | | | |
| innoPad, Inc. | с | \$4,100,000 | 32% | \$23,500,000 | \$27,600,000 | Even | | | | |
| Polatis, Inc. | В | \$2,600,000 | 6% | \$41,000,000 | \$43,500,000 | Down | | | | |
| SensAble Technologies, Inc. | A-1 | \$8,000,000 | 28% | \$20,600,000 | \$28,600,000 | Up | | | | |
| Tap 'n Tap, Inc. | с | \$1,800,000 | 21% | \$6,500,000 | \$8,300,000 | Up | | | | |
| | | • | OTHER | | · | • | | | | |
| Awareness, Inc. | В | \$10,800,000 | 35% | \$20,100,000 | \$31,000,000 | Down | | | | |
| Azigo, Inc. | В | \$2,200,000 | 29% | \$5,500,000 | \$7,700,000 | Down | | | | |
| EveryScape, Inc. | D | \$6,000,000 | 15% | \$33,100,000 | \$39,100,000 | Up | | | | |
| SepSensor Inc. | A-1 | \$2,500,000 | 18% | \$5,400,000 | \$7,900,000 | Down | | | | |
| SwapTree, Inc. | D-2 | \$6,000,000 | 13% | \$39,000,000 | \$45,000,000 | Up | | | | |

Figures shown in the Amount Raised, Pre-Money Valuation and Post-Money Valuation columns have been rounded to the nearest hundred thousand. This analysis is inherently imprecise and is based on a number of general assumptions which may or may not be accurate. However, in a typical situation we believe it will yield an approximation of the valuation placed on the company at the time of financing, and therefore may be of interest to our readers.



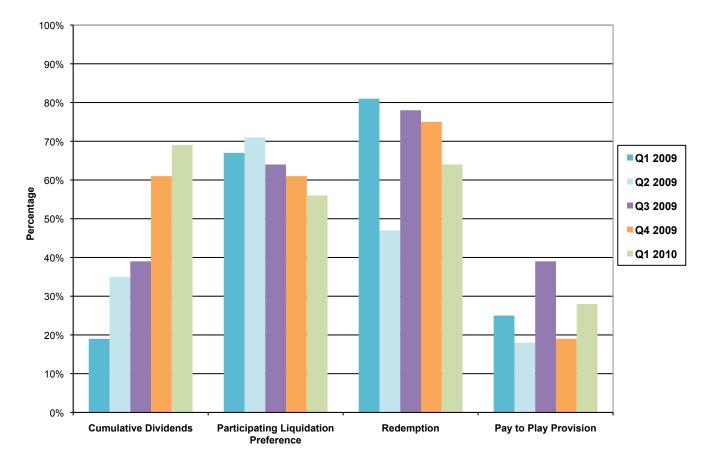




Selected New England Series A Deal Terms 2009-2010

The chart above summarizes publicly available information about various terms included in "Series A" financings for companies headquartered in New England. For the purposes of this table we have focused solely on transactions that appeared to us, from the public filings, to be identifiable as "Series A" financings. We have excluded transactions that appeared to us to involve considerations and concerns different from those applicable in a typical "Series A", such as might occur, for example in the case of a recapitalization. For this reason, the set of transactions described above is somewhat different from the set of transactions described in the later tables. We have selected terms to report on that we believe will be of particular interest to entrepreneurs. Each of these terms is linked to a description of that term on our website.





Selected New England Series B and Later Round Deal Terms 2009-2010

The chart above summarizes publicly available information about various terms included in "Series B" and later round financings for companies headquartered in New England. For the purposes of this table we have focused solely on transactions that appeared to us, from the public filings, to be identifiable as "Series B" and later round financings. We have excluded transactions that appeared to us to involve considerations and concerns different from those applicable in a typical "Series B" or later round, such as might occur, for example in the case of a recapitalization. For this reason, the set of transactions described above is somewhat different from the set of transactions described in the later tables. We have selected terms to report on that we believe will be of particular interest to entrepreneurs. Each of these terms is linked to a description of that term on our website.



The Activity Level Summary - New England

New England Series A Deals by Industry*

| | | 20 | 09 | | 2010 | | |
|----------------|----|----|----|----|------|---------------------------------|---------------------------------|
| Industry | Q1 | Q2 | Q3 | Q4 | Q1 | Quarter ended March 31, 2009 | Quarter ended March 31, 2010 |
| Life Sciences | | | | | | | |
| Biopharma | 1 | 1 | 0 | 3 | 5 | 1 | 5 |
| Medical Device | 0 | 0 | 4 | 1 | 1 | 0 | 1 |
| Clean Tech | 0 | 1 | 1 | 1 | 1 | 0 | 1 |
| Technology | 2 | 2 | 2 | 2 | 3 | 2 | 3 |
| Other | 5 | 1 | 6 | 6 | 5 | 5 | 5 |
| Total | 8 | 5 | 13 | 13 | 15 | 8 | 15 |

* Source: Dow Jones VentureSource

| | | 20 | 09 | | 2010 | | |
|----------------|----|----|--|----|------|---------------------------------|---------------------------------|
| Industry | Q1 | Q2 | Q3 | Q4 | Q1 | Quarter ended March 31, 2009 | Quarter ended March 31, 2010 |
| Life Sciences | | • | `````````````````````````````````````` | | | | · |
| Biopharma | 10 | 8 | 10 | 13 | 8 | 10 | 8 |
| Medical Device | 4 | 8 | 4 | 5 | 7 | 4 | 7 |
| Clean Tech | 1 | 0 | 1 | 3 | 4 | 1 | 4 |
| Technology | 16 | 11 | 12 | 20 | 11 | 16 | 11 |
| Other | 8 | 14 | 13 | 18 | 15 | 8 | 15 |
| Total | 39 | 41 | 40 | 59 | 45 | 39 | 45 |

New England Series B and Later Round Deals by Industry*

* Source: Dow Jones VentureSource



The Activity Level Summary - National

National Series A Deals by Industry*

| | | 20 | 009 | | 2010 | | |
|----------------|----|----|-----|-----|------|---------------------------------|---------------------------------|
| Industry | Q1 | Q2 | Q3 | Q4 | Q1 | Quarter ended March 31, 2009 | Quarter ended March 31, 2010 |
| Life Sciences | | | | | | | |
| Biopharma | 9 | 4 | 17 | 19 | 13 | 9 | 13 |
| Medical Device | 4 | 7 | 17 | 15 | 12 | 4 | 12 |
| Clean Tech | 3 | 5 | 7 | 14 | 6 | 3 | 6 |
| Technology | 22 | 13 | 30 | 49 | 34 | 22 | 34 |
| Other | 45 | 16 | 79 | 95 | 85 | 45 | 85 |
| Total | 83 | 45 | 150 | 192 | 150 | 83 | 150 |

* Source: Dow Jones VentureSource

| | | 20 | 09 | | 2010 | | |
|----------------|-----|-----|-----|-----|------|---------------------------------|---------------------------------|
| Industry | Q1 | Q2 | Q3 | Q4 | Q1 | Quarter ended March 31, 2009 | Quarter ended March 31, 2010 |
| Life Sciences | | | | | | | |
| Biopharma | 39 | 40 | 51 | 54 | 41 | 39 | 41 |
| Medical Device | 31 | 55 | 52 | 61 | 47 | 31 | 47 |
| Clean Tech | 11 | 18 | 17 | 18 | 24 | 11 | 24 |
| Technology | 107 | 100 | 104 | 140 | 116 | 107 | 116 |
| Other | 112 | 125 | 160 | 171 | 137 | 112 | 137 |
| Total | 380 | 338 | 384 | 444 | 365 | 300 | 365 |

National Series B and Later Round Deals by Industry*

* Source: Dow Jones VentureSource



| Industry | \$5 million or less | Above \$5 million up to \$10 million | Above \$10 million up to \$15 million | Above \$15 million up to \$20 million | Above \$20 million |
|----------------|---------------------|---|---|---|--------------------|
| Life Sciences | | | | | |
| Biopharma | 2 | 0 | 2 | 0 | 1 |
| Medical Device | 0 | 1 | 0 | 0 | 0 |
| Clean Tech | 0 | 0 | 0 | 1 | 0 |
| Technology | 3 | 0 | 0 | 0 | 0 |
| Other | 4 | 1 | 0 | 0 | 0 |
| Total | 9 | 2 | 2 | 1 | 1 |

Size of New England 2010 Series A Deals by Industry*

* Source: Dow Jones VentureSource

Size of New England 2010 Series B and Later Round Deals by Industry*

| Industry | \$5 million or less | Above \$5 million up to \$10 million | Above \$10 million up to \$15 million | Above \$15 million up to \$20 million | Above \$20 million |
|----------------|---------------------|---|---|---|--------------------|
| Life Sciences | | | | | |
| Biopharma | 2 | 3 | 0 | 1 | 2 |
| Medical Device | 3 | 2 | 0 | 1 | 1 |
| Clean Tech | 2 | 1 | 0 | 0 | 1 |
| Technology | 5 | 3 | 3 | 0 | 0 |
| Other | 8 | 3 | 3 | 1 | 0 |
| Total | 20 | 12 | 6 | 3 | 4 |

* Source: Dow Jones VentureSource

The tables above summarize publicly available information about the number and size of first round financings and second round financings for companies headquartered in New England and nationally by industry. The data included in the tables is derived from Venture Source, a publication of Dow Jones Venture One. Venture Source categorizes transactions as "seed round," "first round," "second round" and so on. Upon examination of each transaction, it is not always clear why a particular transaction was put in a particular category, however, for the purposes of these tables we have used the categories as defined by VentureSource.





If you have any questions about this publication or about the Emerging Enterprise Center at Foley Hoag and how we can help your entrepreneurial venture, please feel free to contact any of the following lawyers:



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