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HAN KUN LAW OFFICES

Han Kun's 2017 Data Analysis Report for VC/PE Deals

Introduction

Han Kun represents investors and companies in numerous venture capital and private equity transactions involving both onshore and offshore structures. Clients include well-known institutional investors and cutting edge start-ups from various sectors.

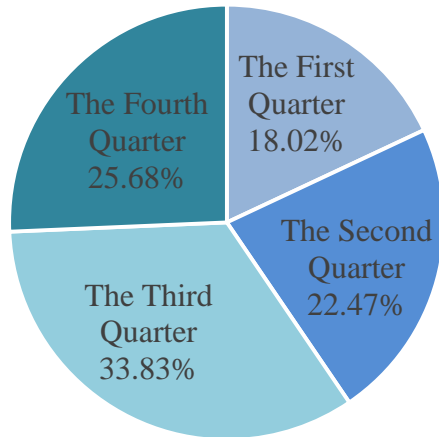
We compiled data from over 500 venture capital and private equity transactions that we closed in 2017, summarizing and analyzing key legal provisions, including investment structure, anti-dilution, redemption, co-sale, transfer restrictions, right of first refusal, liquidation preference, protective provisions, ESOP, preemptive rights, board appointment rights, dividends, governing law and dispute resolution, etc. We hope that our data and analysis will be a useful guide for the industry.

Note: Our report analyzes venture capital and private equity transactions, and does not include fund formations. The data is gathered from venture capital and private equity transactions from 1 January 2017 to 31 December 2017 that closed, and does not include all venture capital and private equity transactions Han Kun was involved in.

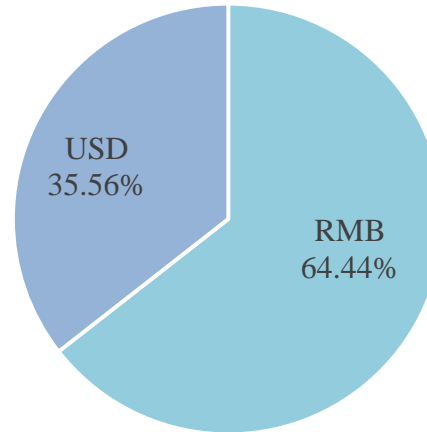
Introduction

In 2017, the aggregate volume of venture capital and private equity transactions Han Kun participated in exceeded RMB250 billion (around USD40 billion).

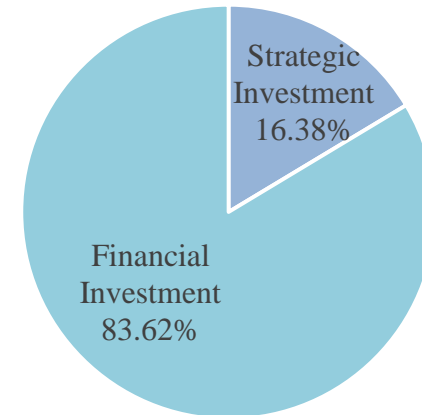
Transactions by Quarter



Transactions by Currency



Transactions by Investor



Note: Transactions led or co-invested by strategics are all categorized as strategic investment deals.

Table of Contents

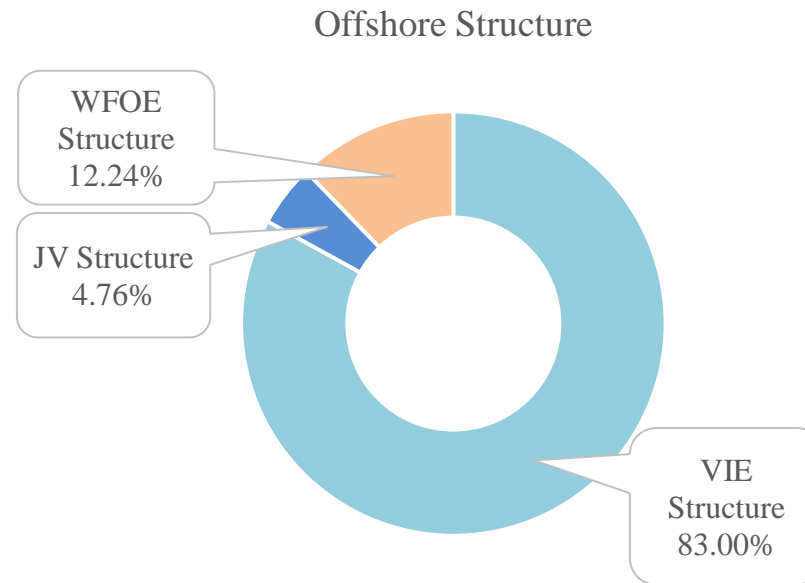
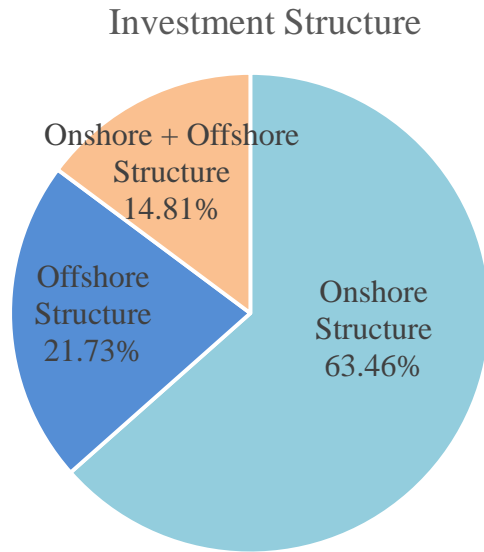




Part I Investment Structure

Investment Structure

Due to rigorous foreign exchange control in 2017, wherein SAFE adhered to a policy of “outflow control”, Han Kun developed and designed the “onshore + offshore” structure. This is in addition to traditional onshore and offshore structures.





Part II Economic Rights

- 1. Liquidation Preference**
- 2. Anti-dilution**
- 3. Drag-along Right**
- 4. Redemption**
- 5. Right of First Refusal and Co-sale Right**
- 6. Dividends**

2.1 Liquidation Preference

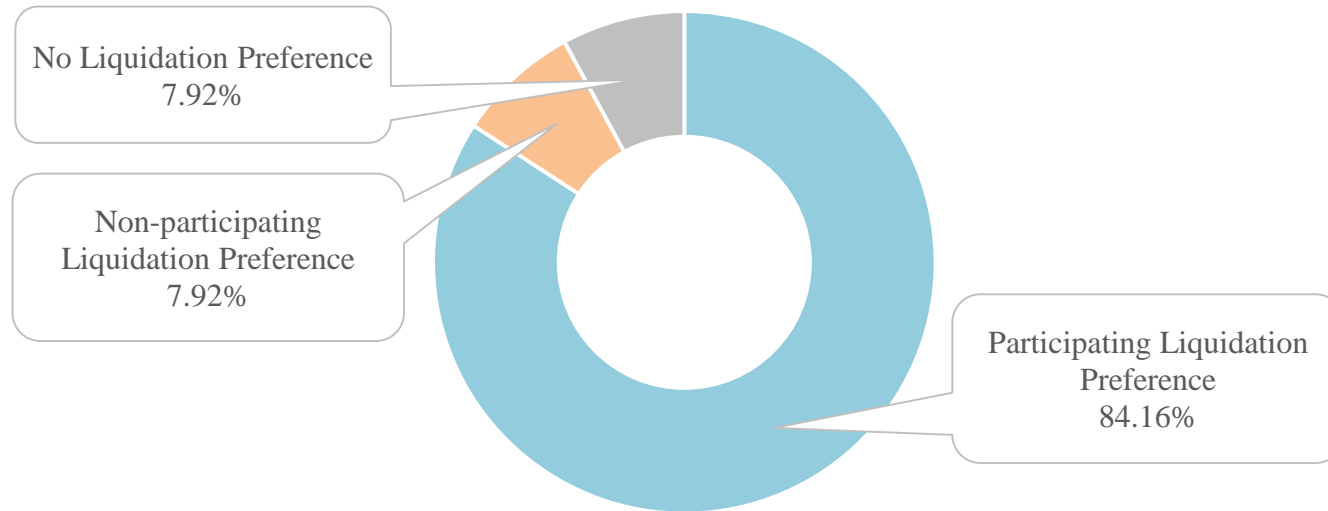
Frequently Used Provisions:

If the company is liquidated or there is a deemed liquidated event (such as a M&A), the investor is entitled to receive a set amount, such as its investment amount plus an annual rate of return. If there is a participating liquidation preference, all the remaining proceeds are allocated to all shareholders on a pro rata basis.

Note:

- (1) Participating vs. Non-participating**
- (2) Order of the Liquidation Preference for Investors**
- (3) Consequences of Various Triggers**

2.1 Liquidation Preference



2.1 Liquidation Preference

Liquidation Calculation	Liquidation Amount Range	Average
Liquidation amount is a percentage of the investment amount	(50%-200%) of the investment amount	116.35% of the investment amount
Liquidation amount is a percentage of the investment amount + simple interest	(100%-250%) of the investment amount + (5%-25%) simple interest	102.79% of the investment amount + 10.56% simple interest
Liquidation amount is a percentage of the investment amount + compound interest	(100%-250%) of the investment amount + (5%-25%) compound interest	100.28% of the investment amount + 9.89% compound interest

2.2 Anti-dilution

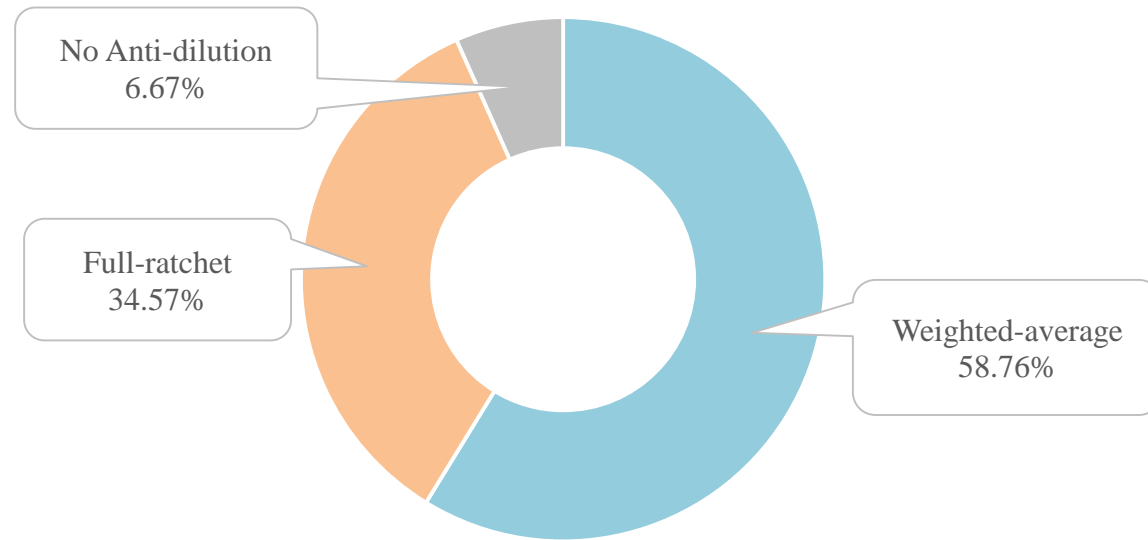
Frequently Used Provisions:

If the company issues new shares at a price lower than the price paid by existing investors, then the shareholding percentage of the existing investors will be adjusted in accordance with a formula (full-ratchet or weighted average).

Note:

- (1) **Full-ratchet vs. Weighted-average**
- (2) **Adjustment Methods**
- (3) **Common Exceptions**

2.2 Anti-dilution



2.3 Drag-along

Frequently Used Provisions:

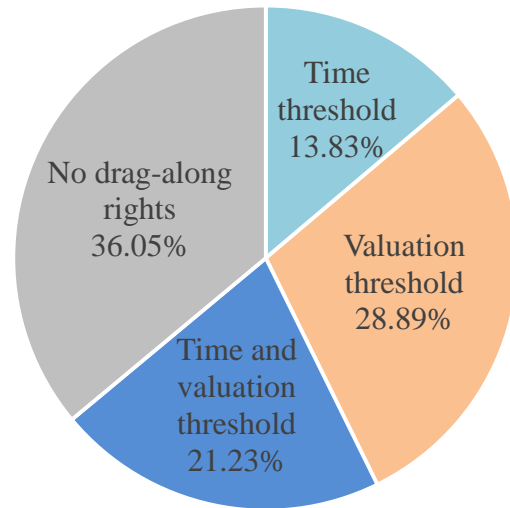
If the third party wishes to acquire all or substantially all of company's assets or equity, if a certain percentage of investors approve such acquisition, the other shareholders are required to approve the transaction.

Note:

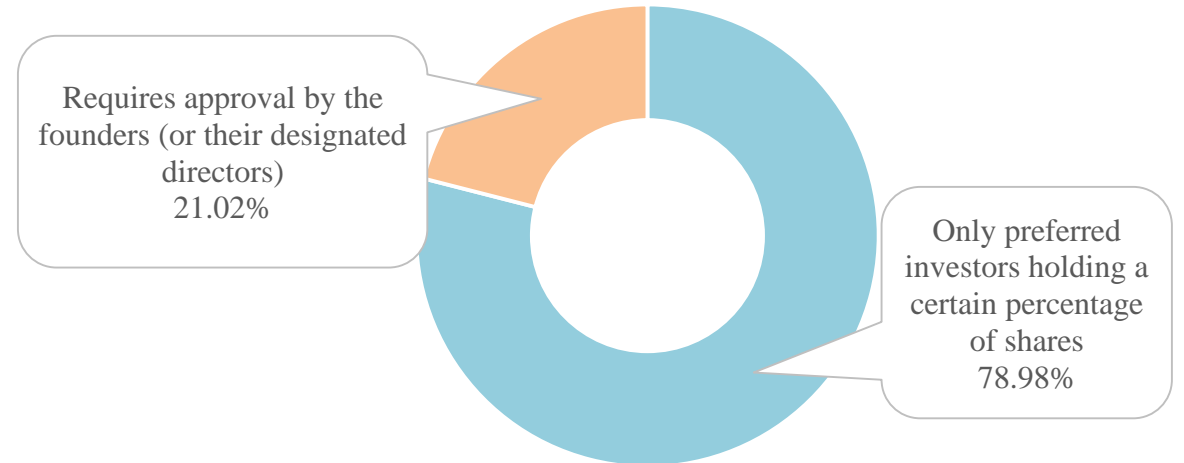
- (1) **Exercising Parties**
- (2) **Time of Exercise**
- (3) **Distribution of Proceeds**
- (4) **Other Limitations**

2.3 Drag-along

Exercise Conditions



Drag-along Requestors



2.4 Redemption

Frequently Used Provision:

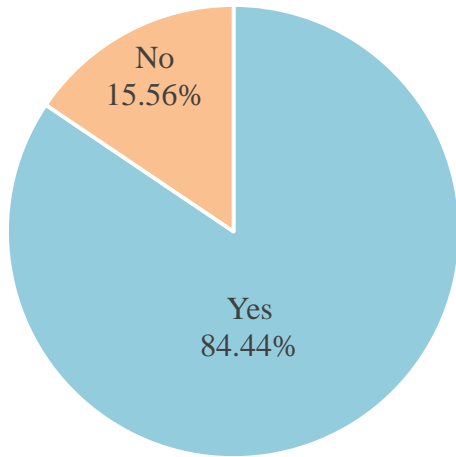
The company (or in the case of onshore deals, also the founders) is required to redeem shares held by a preferred investor upon the occurrence of certain triggers (such as not completing an IPO or M&A by a certain date).

Note:

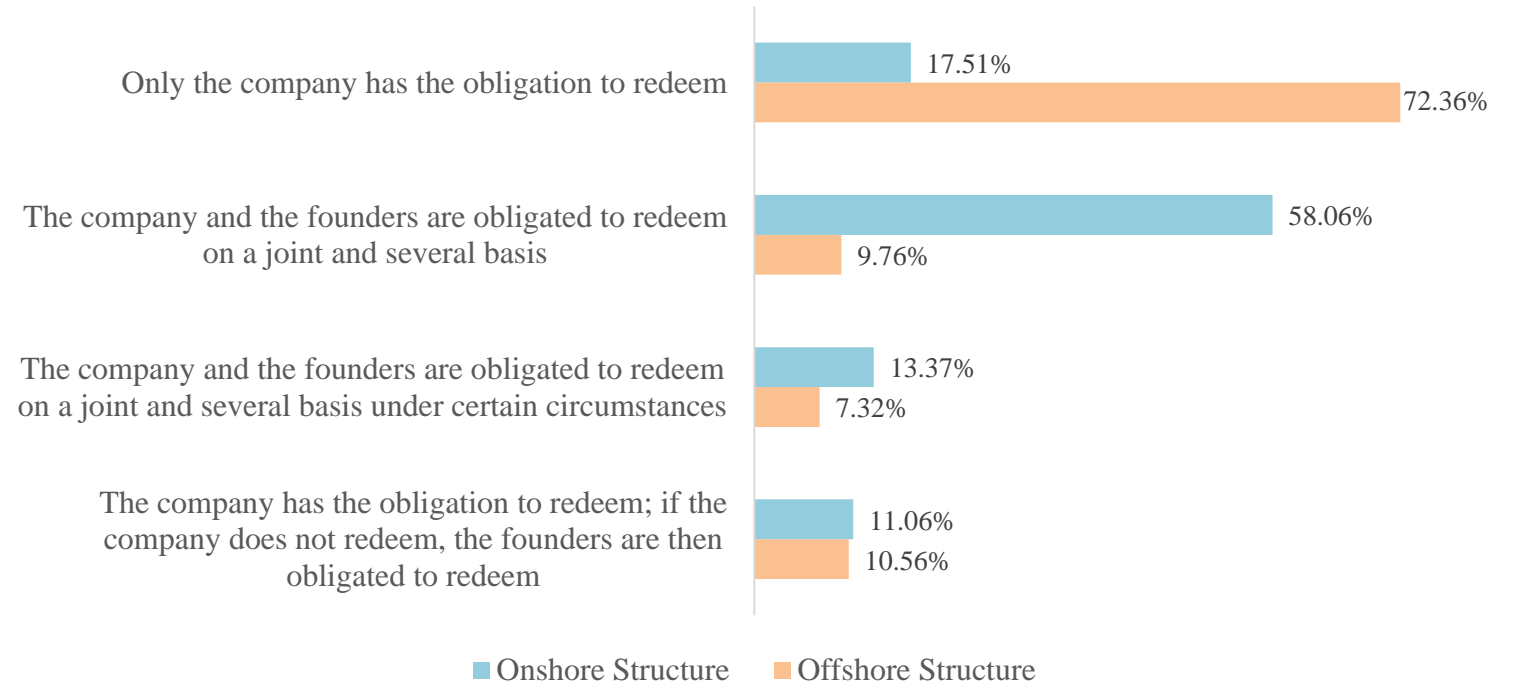
- (1) **Triggers**
- (2) **Redeeming Parties**
- (3) **Repurchase Right**
- (4) **Repurchase Methods**

2.4 Redemption

Existence of Redemption Rights



Methods of Repurchase

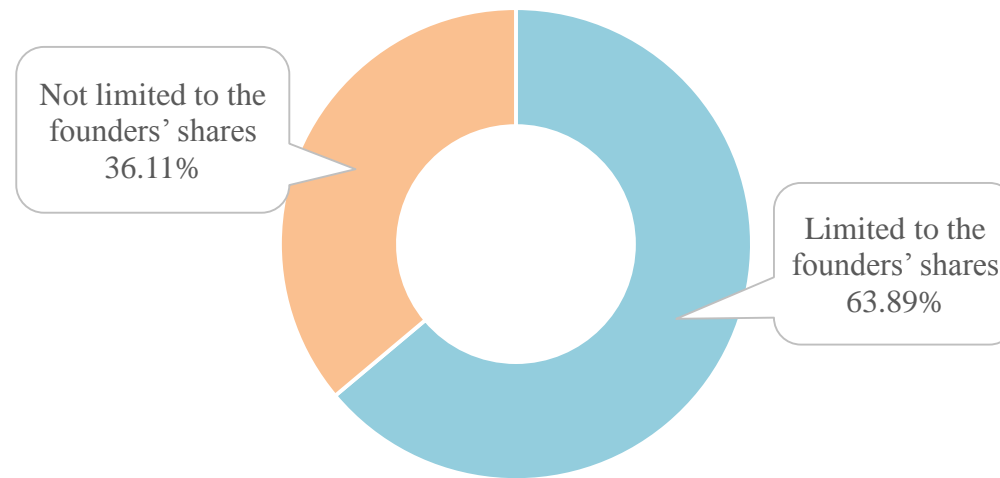


2.4 Redemption

Repurchase Calculation	Redemption Range	Average Amount
Only an agreed investment amount	(100%-200%) of the investment amount	134.06% of the investment amount
An agreed investment amount + simple interest	100% of the investment amount + (4.5%-30%) simple interest	100% of the investment amount + 9.53% simple rate
An agreed investment amount + compound interest	(100%-150%) of the investment amount + (4.5%-30%) compound interest	100.33% of the investment amount + 9.87% compound interest

2.4 Redemption

Founders assume redemption obligations



2.5 Right of First Refusal and Co-sale

Frequently Used Provision:

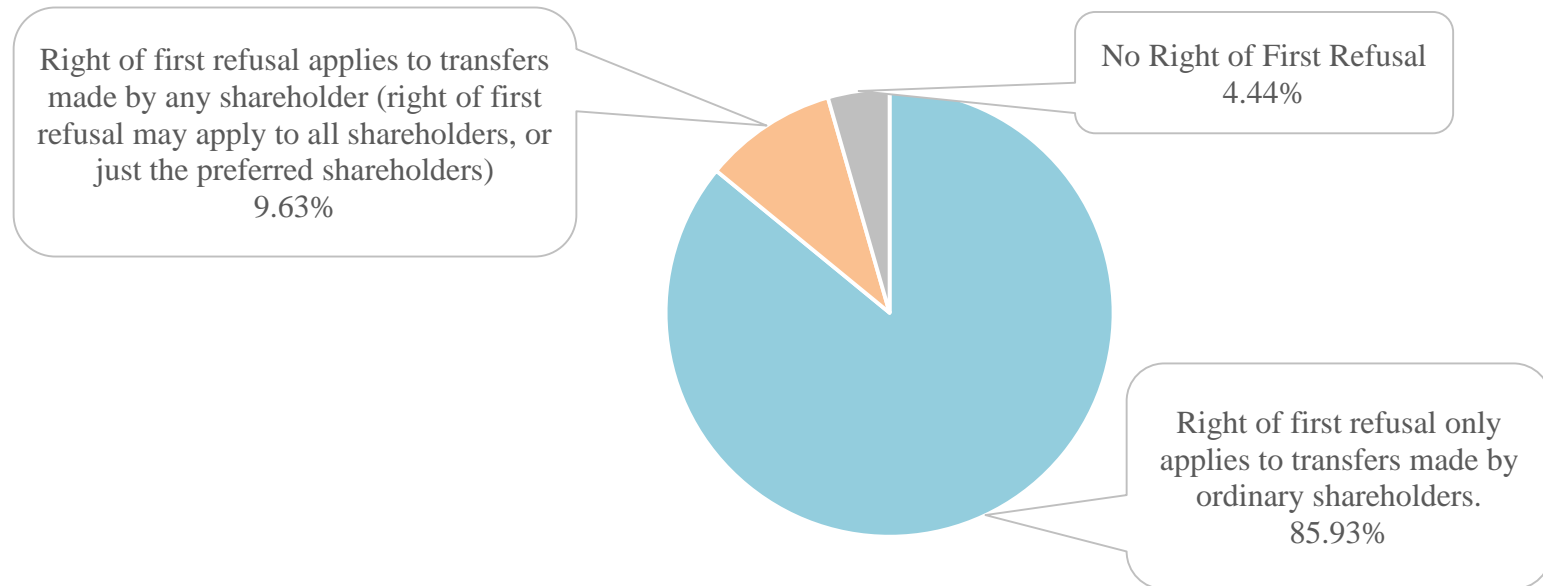
With the prior consent of the investors, if the founders or other ordinary shareholders intend to transfer all or part of the shares held by them, the investors shall have a right of first refusal to purchase all or part of the shares proposed to be sold on the same terms and conditions on a pro rata basis. For those investors who have not exercised their right of first refusal, such investors may co-sell shares alongside the selling shareholders to the proposed transferee on a pro rata basis between the investors and the founders.

Note:

- (1) **Transfer Restrictions on the Founders**
- (2) **Transfer Restrictions on the Investors**
- (3) **Procedures**

2.5 Right of First Refusal and Co-sale

Right of First Refusal



2.5 Right of First Refusal and Co-sale

Co-sale Rights	Percentage
Ratio for Co-sale = percentage held by the investor ÷ (percentage held by all investors + percentage held by the transferor)	85.68%
Other co-sale rights	14.32%

2.6 Dividends

Frequently Used Provision:

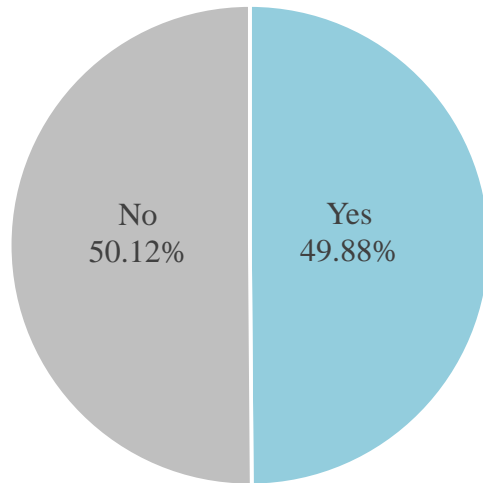
When the company declares dividends, (i) all shareholders are entitled to dividends on a pro-rata basis or (ii), the preferred investors first receive a fixed yield, after which the remaining dividends are distributed to all shareholders (or all shareholders except the preferred investors) on a pro rata basis.

Note:

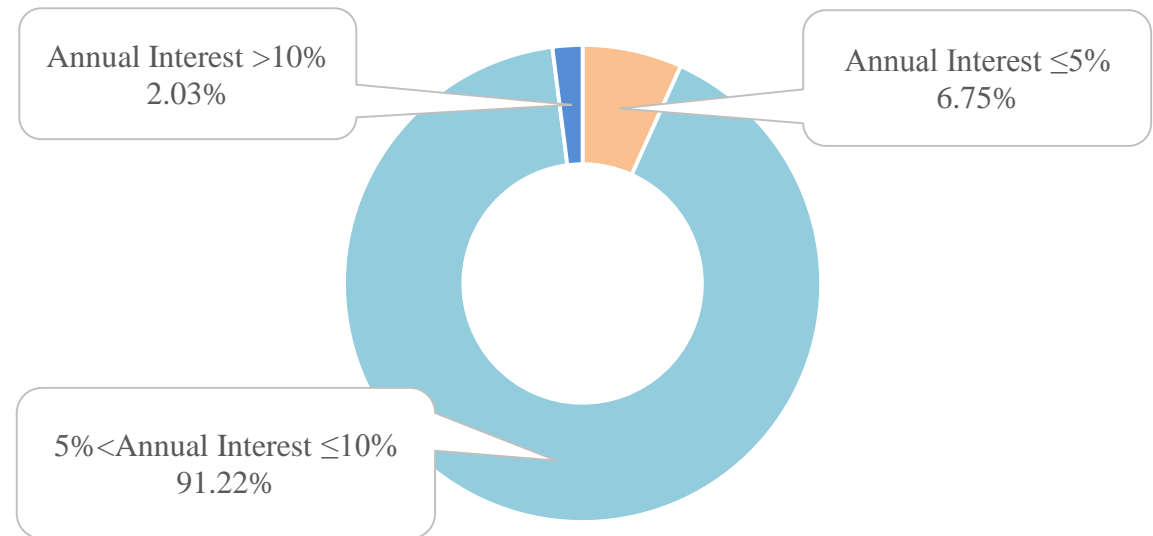
- (1) **Participating vs. Non-participating**
- (2) **Simple Interest vs. Compound Interest**
- (3) **Specific Yield**

2.6 Dividends

Existence of Dividend Rights



Dividend Yield





Part III Shareholder Rights

- 1. Preemptive Rights**
- 2. Protective Provisions**
- 3. Information and Inspection Rights**
- 4. Restrictions on Founders and Investors**

3.1 Preemptive Rights

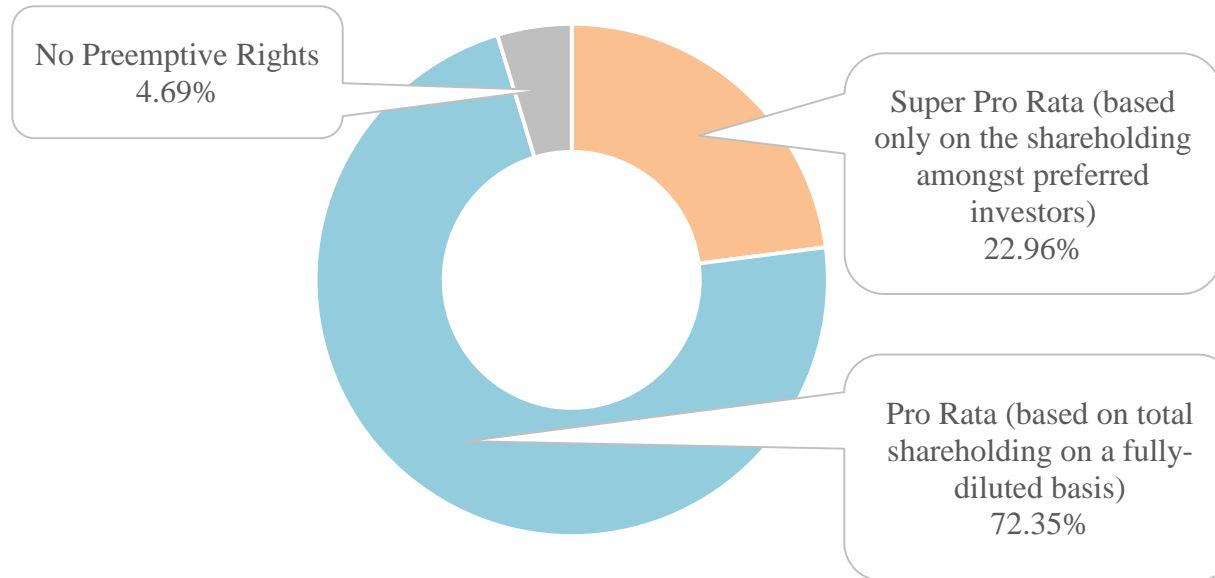
Frequently used Provision:

When the company issues new shares prior to its listing, the investors have the right to subscribe for the new share on a pro rata basis on the same terms and conditions, with a right of overallotment.

Note:

- (1) **Triggers**
- (2) **Exercise Process**
- (3) **Pro Rata and Overallotment Calculations**
- (4) **Special Restrictions**

3.1 Preemptive Rights



3.2 Protective Provisions

Frequently Used Provisions:

Offshore Structure: Critical matters require consent from a certain percentage of preferred investors or investor designated directors.

Onshore Structure: Critical matters require consent from a certain percentage of preferred investors or investor designated directors (certain matters require 2/3 shareholder consent as a matter of law).

Categories: Economic rights and daily operational matters.

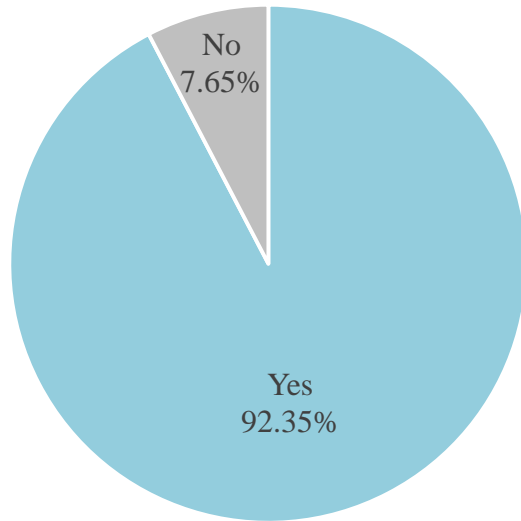
Note:

(1) Exercising Parties

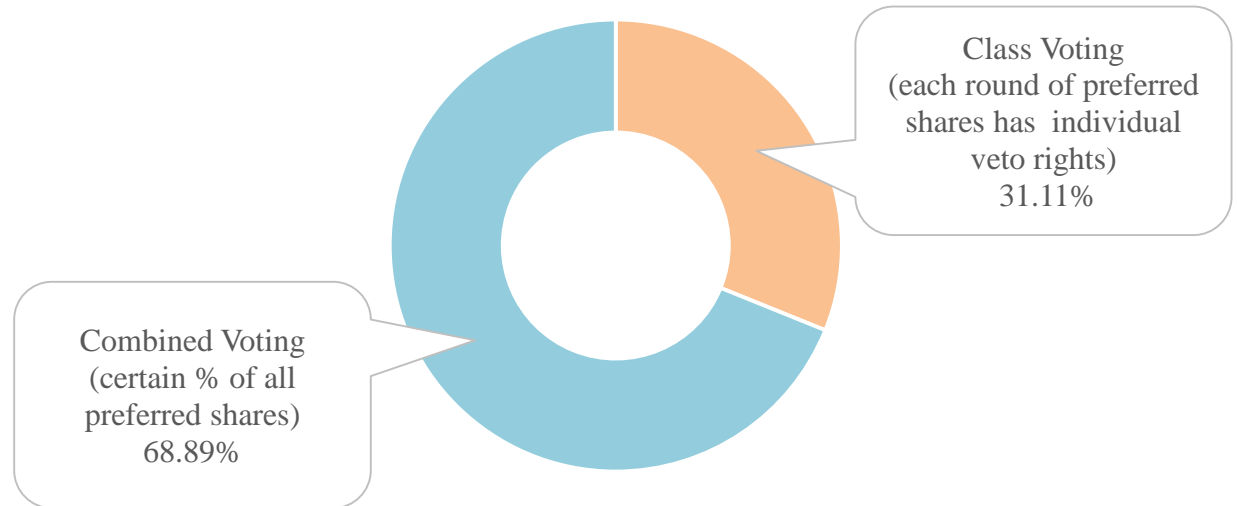
(2) Protective Provision Matters

3.2 Protective Provisions

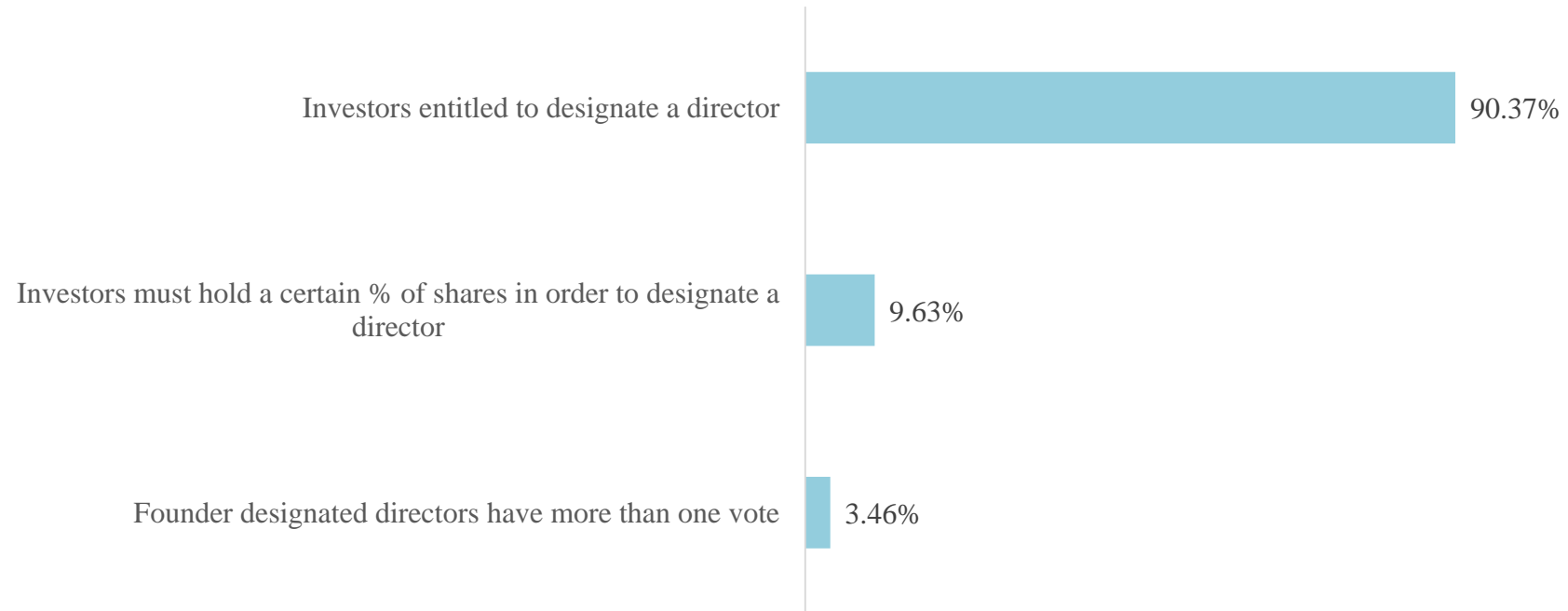
Existence of Protective Provisions



Approval Mechanism



3.2 Protective Provisions



3.3 Information and Inspection Rights

Frequently Used Provisions:

- (1) Audited financials from an accounting firm approved by the investors, typically within 90 days following years end.
- (2) Quarterly unaudited financials, typically within 45 days following the end of each quarter.
- (3) Monthly financials (or management report), typically within 30 days following the end of each month.
- (4) Detailed annual budget and business plan for the next year, typically within 30 days prior to the start of the financial year.
- (5) Inspection rights, meaning the right to examine the company's books and records and operational information at its place of business.

Note:

- (1) **Exercising Parties**
- (2) **Type of Information**
- (3) **Frequency of Delivery**

Han Kun Data: 91.11% of transactions have information and inspection rights provisions.

3.4 Founder and Investor Transfer Restrictions

Frequently Used Provisions:

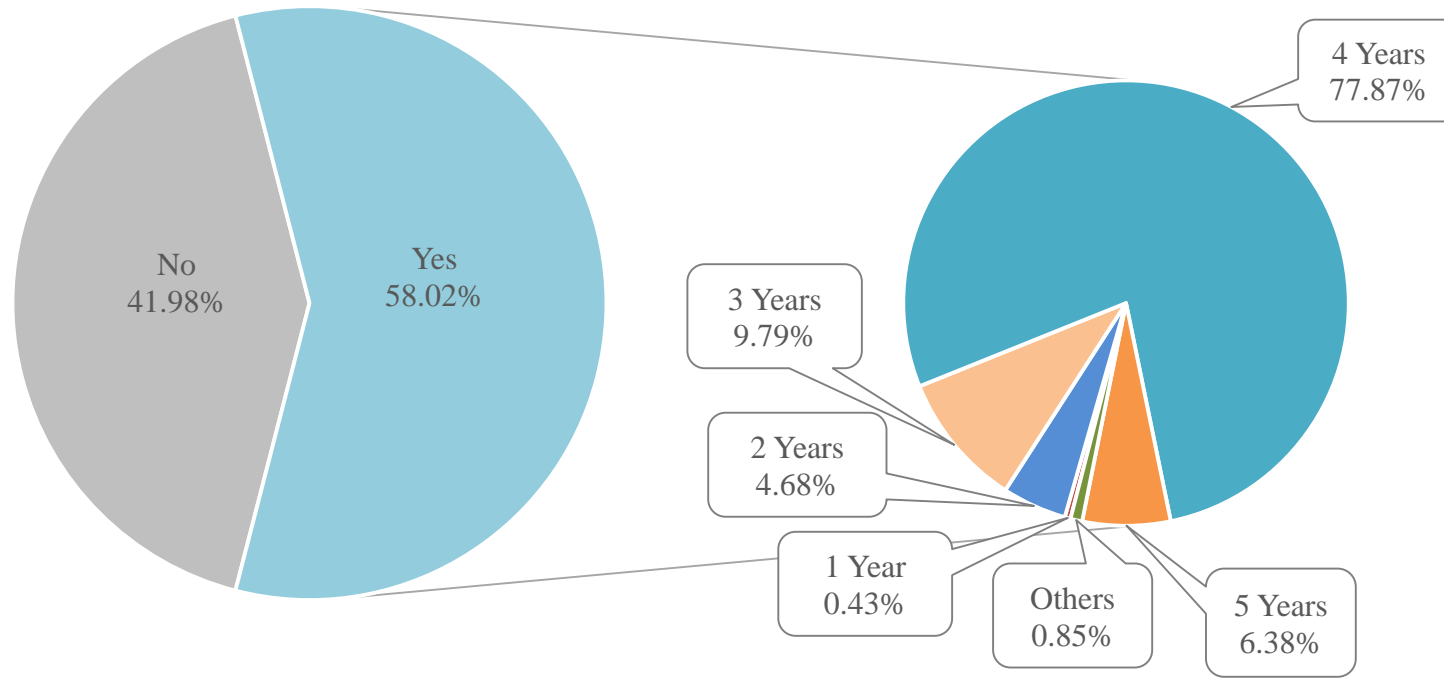
- (1) Founder restricted shares with a vesting schedule (if the founder departs within the vesting schedule, the company has the right to repurchase the shares at the price the founder paid for such unvested shares).
- (2) Founder may not directly or indirectly sell shares prior to an IPO or M&A without investor consent.
- (3) Full-time commitment
- (4) Non-competition obligations (for a period following departure or until the founder no longer holds any shares)

Note:

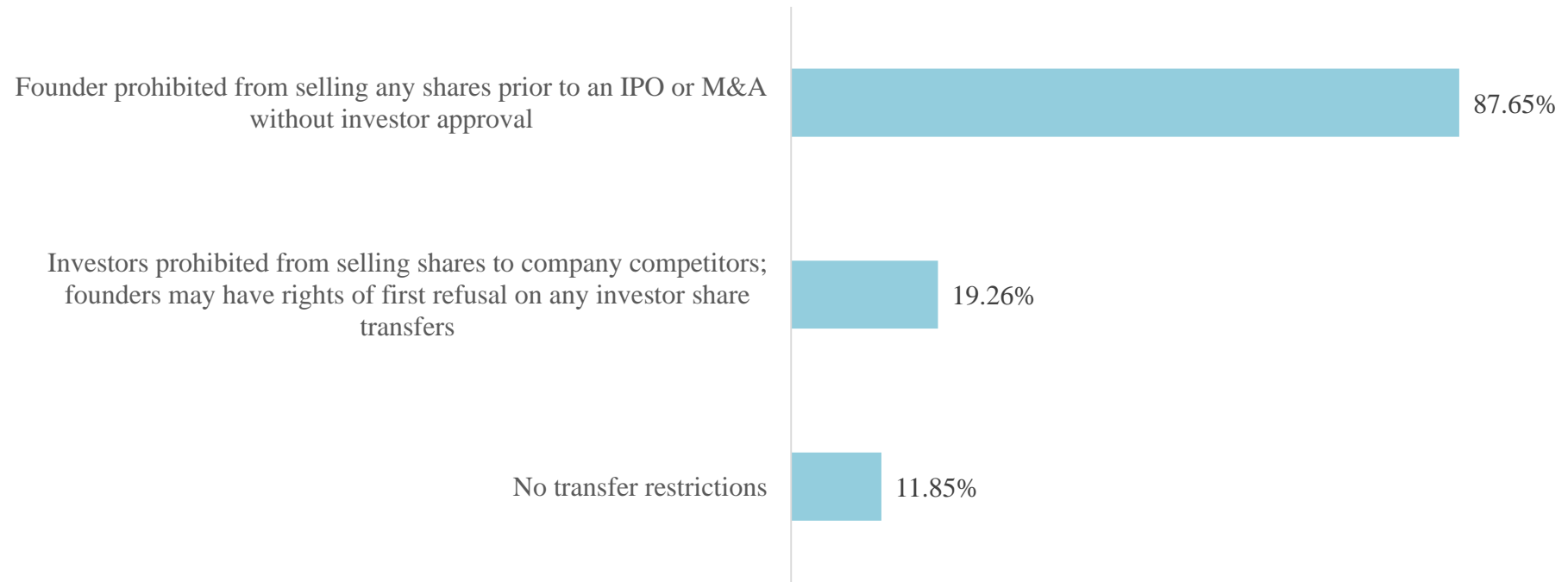
- (1) **Vesting Term**
- (2) **Exceptions**
- (3) **Non-competition Obligations**

3.4 Founder and Investor Transfer Restrictions

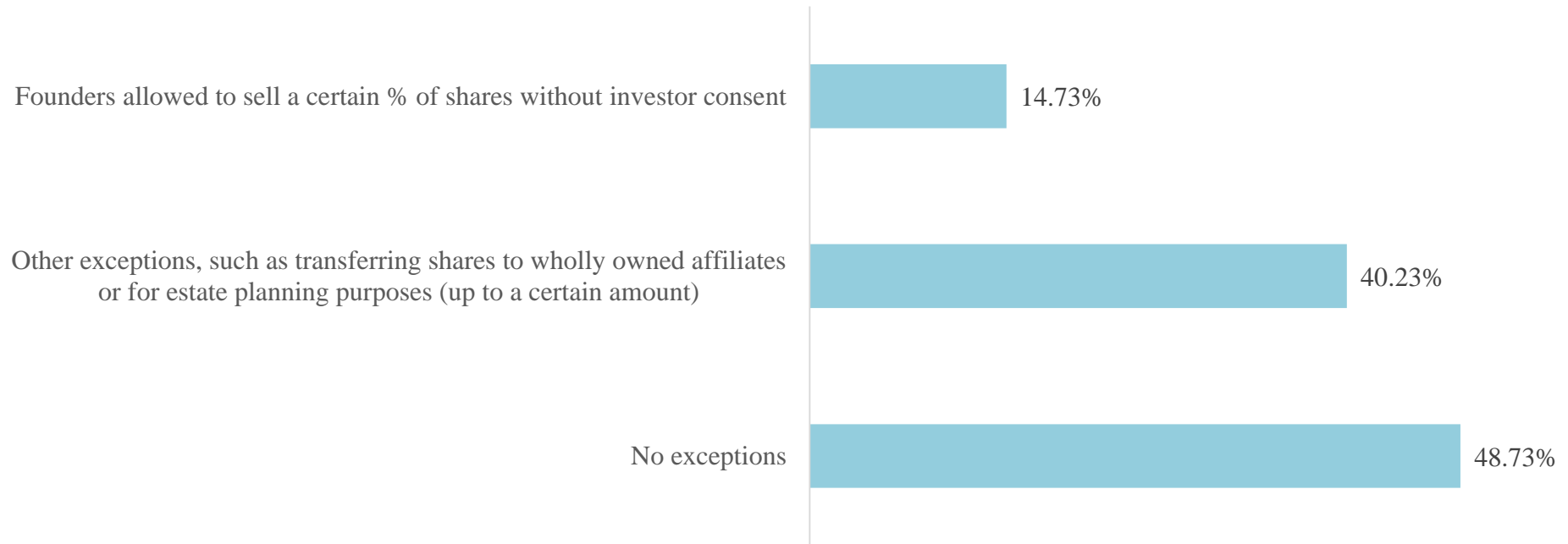
Founder Restricted Shares



3.4 Founder and Investor Transfer Restrictions



3.4 Founder and Investor Transfer Restrictions





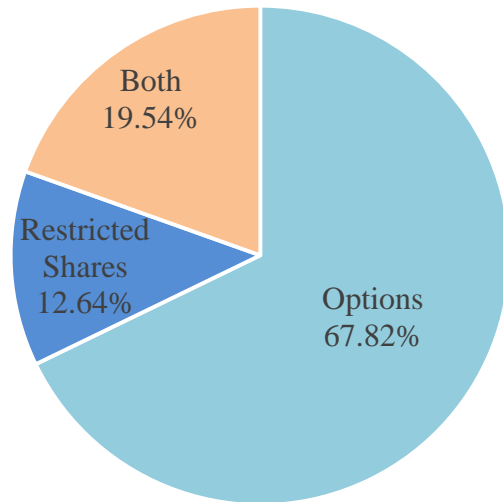
Part IV Other Common Provisions

- 1. ESOP**
- 2. Most Favored Nation Status**
- 3. Warrant**
- 4. Governing Law and Dispute Resolution**

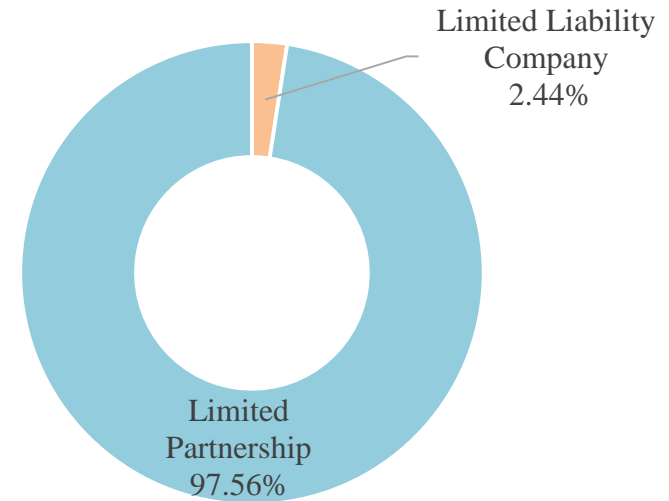
4.1 ESOP

Onshore:

ESOP Awards



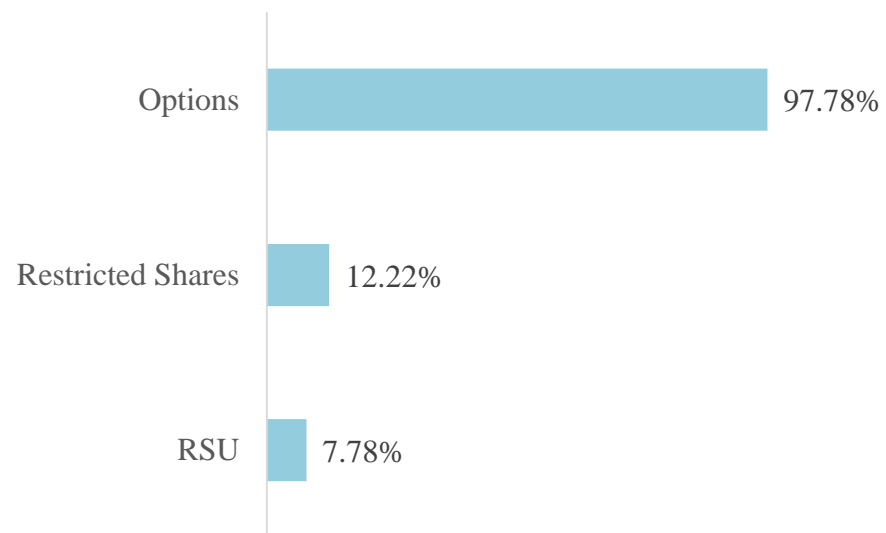
ESOP Structures



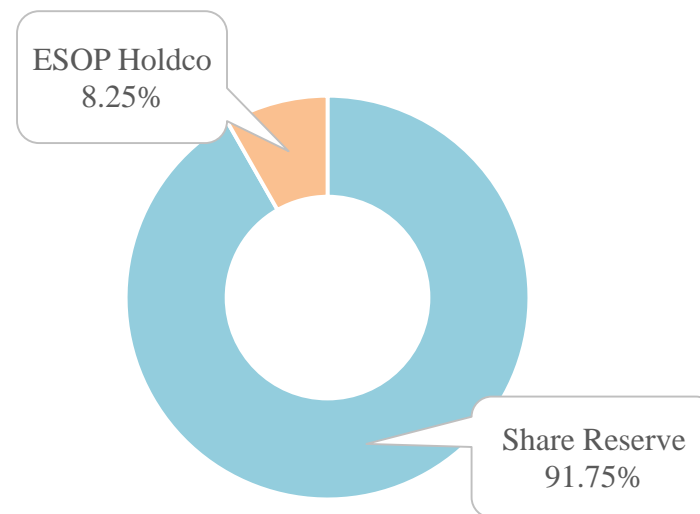
4.1 ESOP

Offshore:

ESOP Awards



ESOP Structures



4.1 ESOP

ESOP Reserve:

Post-closing ESOP reserve (including options and restricted shares)	Percentage			
	Pre-A Round	A Round	B Round	C Round and After
ESOP Percentage $\leq 5\%$	0.00%	7.89%	13.16%	15.69%
$5\% < \text{ESOP Percentage} \leq 10\%$	39.62%	28.29%	42.11%	41.18%
$10\% < \text{ESOP Percentage} \leq 15\%$	41.51%	34.87%	26.32%	27.45%
$15\% < \text{ESOP Percentage} \leq 20\%$	7.55%	19.74%	13.16%	13.73%
ESOP Percentage $> 20\%$	11.32%	9.21%	5.25%	1.95%

4.2 Most Favored Nation, Warrants, Governing Law and Dispute Resolution

Most Favored Nation:

If any existing (or future) investor enjoys better rights than existing investors, the existing investors will automatically be entitled to such better rights.

Han Kun Data: 31.60% of transactions have a most favored nation provision.

Warrant:

Han Kun Data: Investors receive a warrant to purchase shares in the future in 12.59% of transactions.

Governing Law and Dispute Resolution:

Han Kun Data: No Arbitration, 6.42%, Arbitration, 93.58%.

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Thanks!