PRIVATE MARKET LIQUIDITY: A REVIEW OF TENDER OFFERS

GUNDERSON DETTMER

Overview

Tender offers continue to play a critical role in providing liquidity to stockholders while balancing company needs and investor goals. Tender offer deal count for 2025 is on track to far exceed 2024, driven primarily by companies with valuations between $1 billion and $10 billion. Tender offer deal sizes have mirrored broader trends in the venture financing markets over the past six years, and 2025 data reflects a relatively balanced mix of deal values. Tender offer prices match the company's most recent preferred stock financing in 60% of recent deals. If the tender offer price incorporates a discount to the most recent financing price, the discount is usually more than 10%.

Tender offers continue to function primarily as a vehicle for common stockholder liquidity, and while company-led tender offers are happening more often, investor-led tender offers continue to be the norm. Current service providers are the group of eligible sellers included in most deals, followed by founders, then former service providers and then investors. The median percentage of vested holdings that participants are allowed to sell is 20% for founders, executives and current service providers, 28% for former service providers and 100% for investors, although for founders, this calculation does not reflect data from the 27% of deals in which founder sales occur outside the tender offer framework. A recent trend has been the use of tender offers to provide stockholders with liquidity to cover tax liabilities resulting from the company's removal of vesting conditions on outstanding RSUs to avoid expiration and forfeiture of the awards before settlement.

This is Gunderson Dettmer's private market liquidity and tender offers report, analyzing data collected from nearly 250 tender offer transactions in which we have represented clients. The report examines market trends in tender offer deal count, offer size, purchase price, securities subject to the offer, buyer composition, seller eligibility and transaction fees, and includes insights from Gunderson partners.

Methodology

The data in this report is collected from private company tender offers in which Gunderson Dettmer represented either the company or a third-party buyer. It includes both company-led and investor-led tender offers, except that the data presented in "Parties Responsible for Paying Agent Fees" is limited to tender offers in which a third-party buyer participated. Data is allocated to a specific time period according to the date on the Offer to Purchase for each transaction.

Investors Need to Provide Liquidity

The slowdown in IPO and M&A activity has made traditional liquidity paths less reliable for venture and growth investors, prompting fund managers to seek alternative strategies for delivering returns to investors. Funds generally have two courses of action: they can sell assets (portfolio company securities) to generate cash for distribution to limited partners, or they can assist limited partners in selling their interests in the fund itself.

Asset-level transaction options include direct secondary sales of portfolio company stock to a third party or back to the company; sales of multiple assets together in a portfolio sale of all the fund's portfolio company securities or a strip sale of a set percentage of each investment; indirect secondary sales, which involve transferring assets to a special purpose vehicle (SPV) controlled by the fund and then transferring interests in the SPV to a purchaser; and forward contracts, which transfer the economic effects of stock ownership without actually transferring the securities. Each route varies in feasibility and complexity. For example, direct secondary sales of portfolio company securities are simple but are often prohibited by the portfolio company bylaws, while and SPVs can help navigate these barriers but introduce additional legal, regulatory and operational challenges. Forward contracts and other synthetic solutions offer last-resort liquidity, but these transactions often sit in legal gray areas and require the buyer to have a working relationship with the seller, who will continue to own the underlying securities.

The second category of liquidity solutions are transactions involving fund interests. These include sales of limited partner interests from existing LPs to other LPs or new investors; tender offers to provide broader groups of LPs with the opportunity to sell their interests in the fund; continuation vehicles (CVs), where existing fund assets are sold to a new CV and LPs can choose to cash out or roll their proceeds into the CV; and synthetic CVs, which involve restructuring the existing fund into two new sub-partnerships, rather than creating a separate continuation fund entity. Each of these methods comes with its own challenges. Transfers of LP interests, including via tender offers, are among the most straightforward approaches, but tender offers for LP interests are subject to strict regulatory requirements and disclosure obligations. General partner-led CVs can tailor liquidity to the individual needs of LPs, but these solutions can be complex and expensive and raise issues relating to potential conflicts and regulatory restrictions. Synthetic CVs are better suited for compliance with Exempt Reporting Advisor (ERA) regulations but can require complicated indemnification protection and insurance to limit liability between the fund's sub-partnerships. In any of these strategies, key considerations for the fund will be GP fiduciary duties, compliance with fund documents, LP liquidity needs, tax implications and regulatory requirements.

> "Fund managers are balancing speed, cost, legal risk and stakeholder interests when choosing liquidity strategies. Secondary sales of portfolio company securities can be the simplest and most cost-effective route for funds. Company-sponsored tender offers that allow early investors to participate can serve as a liquidity solution for funds, give the company control over who acquires its securities and relieve pressure on the company to go public or be acquired."

Christi Niehans Frentz
Partner, Silicon Valley

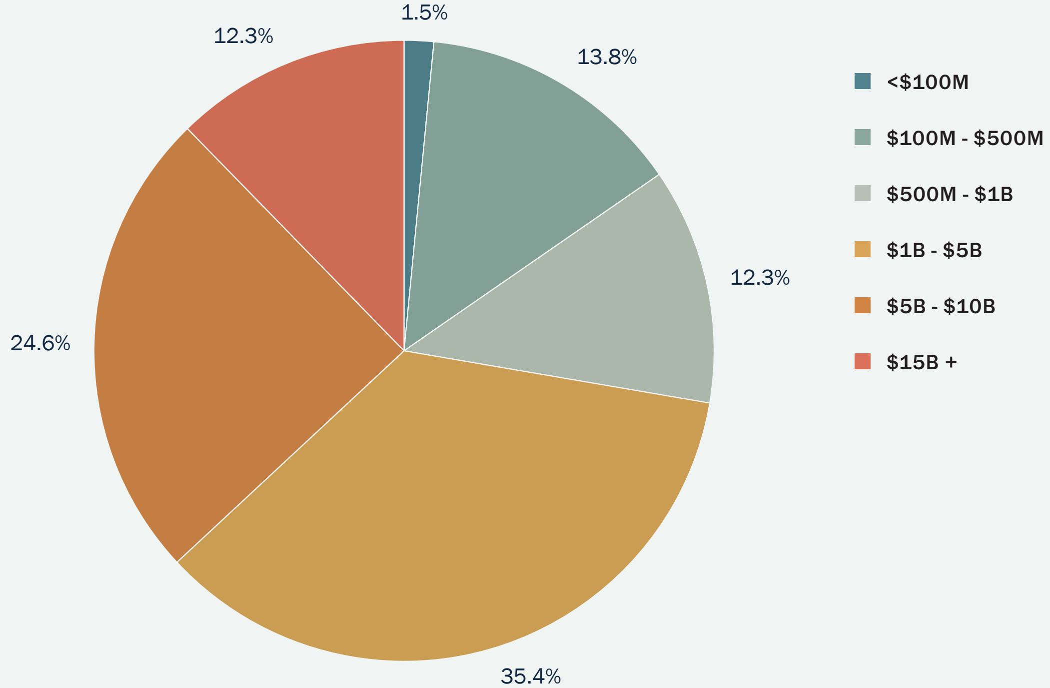
Tender Offers: In Depth

In the context of this search for liquidity solutions, private company tender offers have emerged as a vital mechanism for both companies and investors. The rest of this article explores the structure and attributes of private company tender offers, with insights drawn from data and deal observations.

Gunderson has collected a dataset of 239 private company tender offers in which the firm represented the company or a third-party buyer between January 1, 2020 and June 30, 2025. Tender offers skyrocketed in the frothy 2021 market and then plummeted with interest rate increases and the tight financing market of 2022 and 2023. Based on data from the first half of 2025, deal count for 2025 is on track to far exceed 2024. Notably, June 2025 had the highest number of tender offers of any month since November 2021.

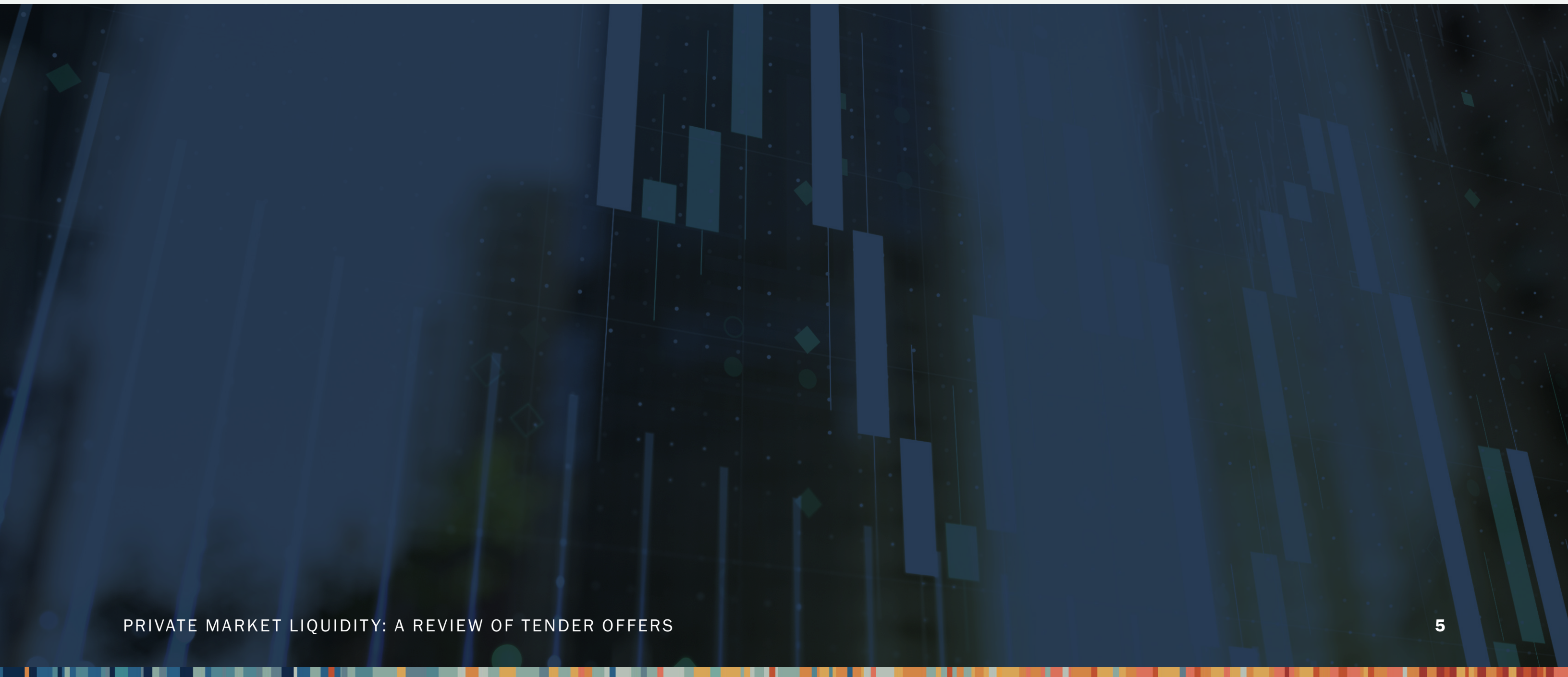
Company Valuation at Time of Tender Offer

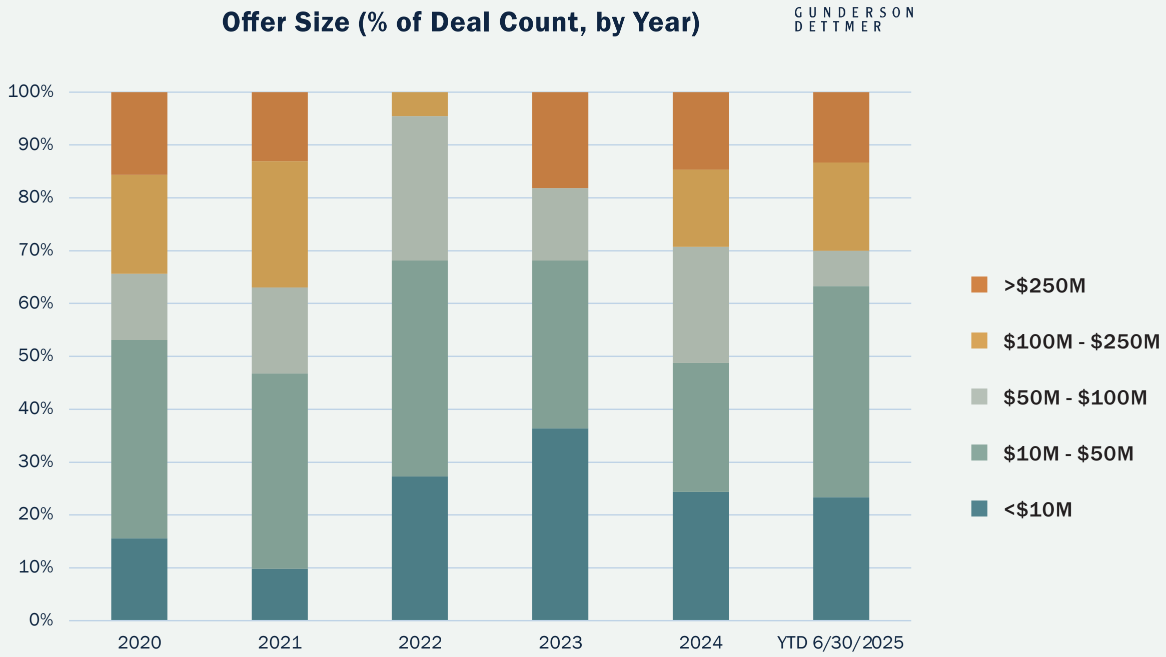
Deals in 18 Months Ended 6/30/25



Company valuation based on tender offer price and fully-diluted capitalization prior to offer.

Valuation data provides more context on the use of tender offers. Tender offers for companies with valuations below $100 million are relatively rare and tend to reflect recapitalization transactions, rather than liquidity events. For tender offers in the 18 months ended June 30, 2025, approximately 60% involved companies with valuations between $1 billion and $10 billion.

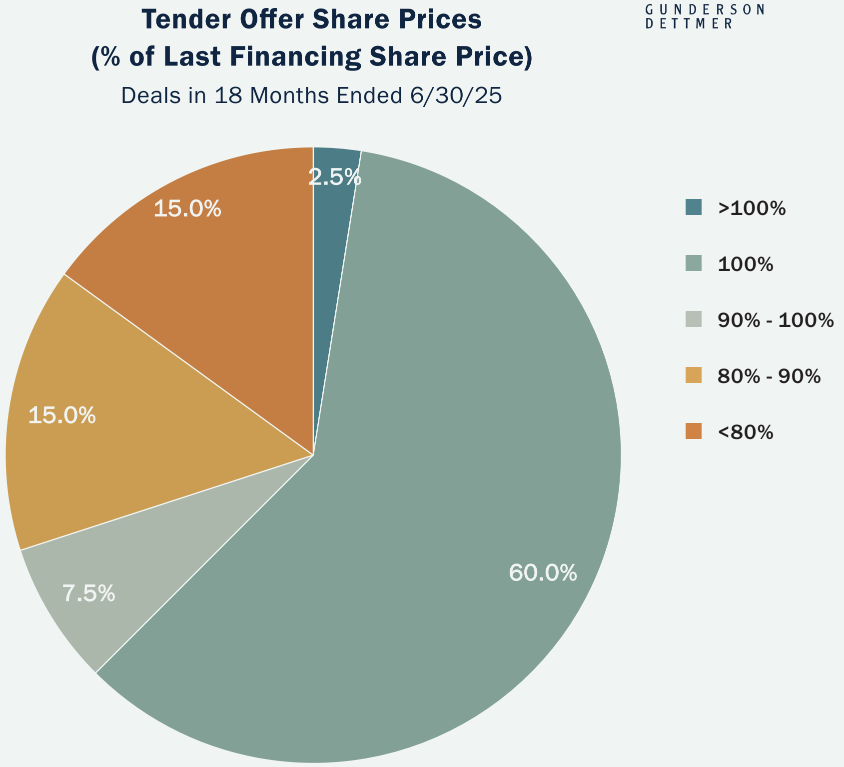




Offer size calculated as tender offer price times the maximum number of shares offered to be purchased

Tender offer sizes over the past six years reflect some of the market dynamics seen in the broader venture financing market. When venture financing activity dropped in 2022, the size of tender offer deals similarly fell, and nearly 70% of deals that year were for less than $50 million. In 2023, while the market was still tight, tender offer deals mirrored the broader venture market in that investors focused either on smaller deals with lower capital commitments, or on the most successful companies doing the highest value deals. In 2025, we're seeing a more balanced mix of deal values, signaling health in the market.

Also, a point about founder sales and tender offer deal value: while founders often participate in tender offers, it is not uncommon for founder sales to take place entirely outside the tender offer framework, even when negotiated in connection with tender offer transactions. Separate founder sales, which are typically much larger than the sales permitted for any other equity holder in the defined tender offer, are often mentioned in the tender offer documents for disclosure purposes. A separate insider sale before or following the tender offer occurred in 27% of the tender offer transactions during the 18 months ended June 30, 2025, and share numbers and proceeds from these separate sales would not be reflected in the tender offer statistics. In contrast, founders were eligible participants in the defined tender offers in 51% of the tender offer transactions during the past 18 months, and the value of these sales is included in the tender offer deal data.



Only includes tender offers launched within 120 days of the company's most recent equity financing.

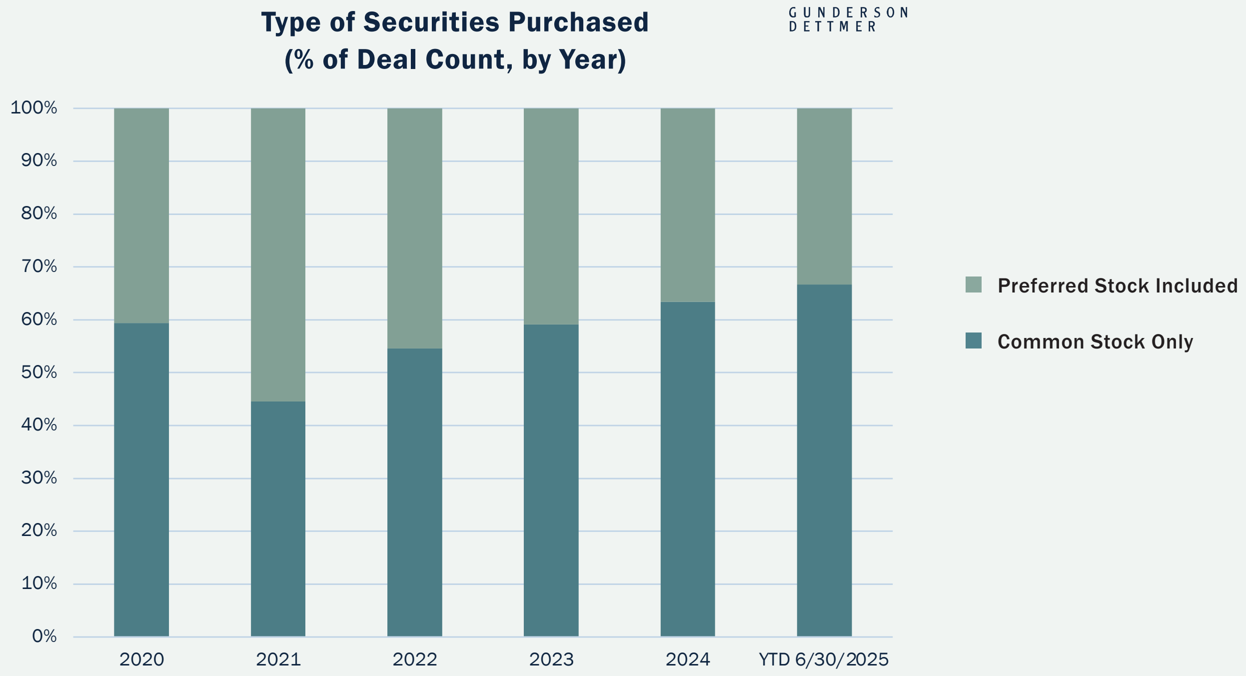
Tender offer prices are typically set in relation to the share price of the company's most recent preferred stock financing. The data for deals over the 18 months ended June 30, 2025, shows that, if the tender offer price does incorporate a discount to the recent financing price, the discount is usually more than 10%. However, in 60% of deals, buyers purchased shares at the same price as the company's most recent preferred stock financing. Included in this segment are deals in which, following the tender offer, the company exchanged the shares purchased by the investors in the tender offer for the most recent series preferred stock. Investors and companies negotiated this type of exchange in 14% of deals.

Another pricing attribute worth mentioning is multiple purchase prices in a single tender offer. Our data showed multiple purchase prices in 8.5% of tender offer deals over the last 18 months. Typically this means that the buyer is offering different prices for different types of securities—for example, one price for common stock and another price for preferred stock, or different prices for each individual series of preferred stock. It is much less common, but a buyer could also offer different prices to different sellers—for example, one price for current service providers and another price for former service providers. Notably, private company tender offers are not subject to the rules applicable to public company tender offers that require purchasers to pay the same price per share to all stockholders.[1]

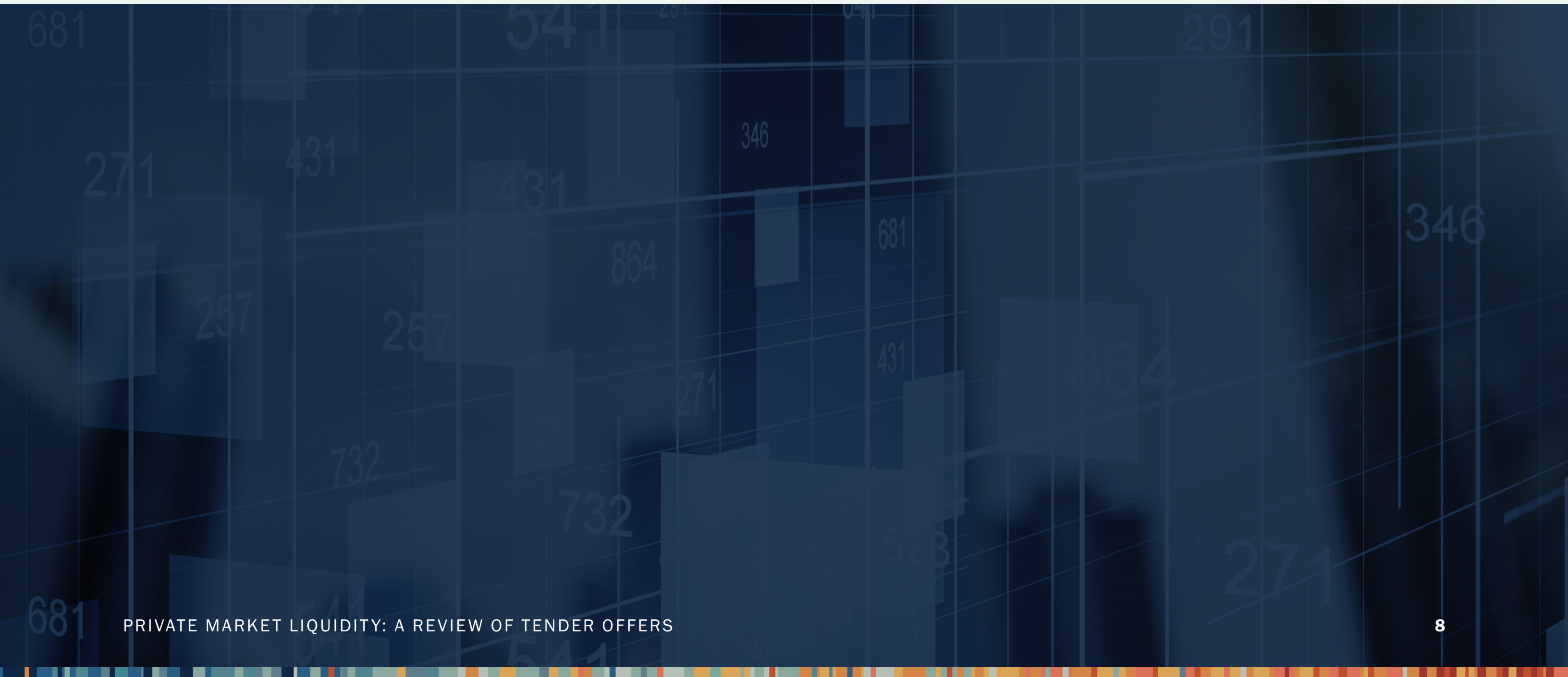
"It's not as common in larger tender offers, but sometimes buyers negotiate the right to exchange the shares they purchase for the company's most recent series of preferred stock. From the investor perspective, they are receiving the same protection as if they had invested their money as primary capital into the business. But a company and its existing stockholders might be less eager to provide liquidation preference when the company isn't retaining (and broadly benefiting from) an investment."

Steve Baglio
Partner, New York

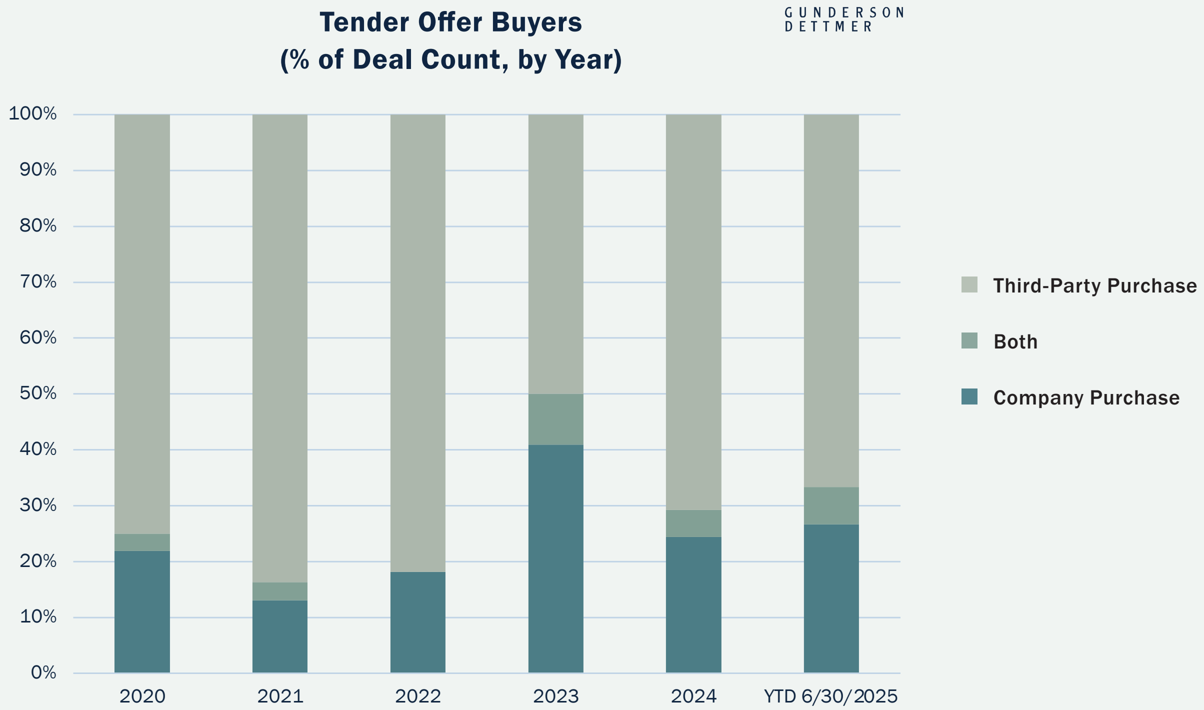
1 Although regulatory matters are outside the scope of this article, note that certain federal securities laws—Section 14(e) of the Exchange Act (and Regulation 14E adopted by the SEC thereunder)—are applicable to private company tender offers. However, Sections 13(e) and 14(d) of the Exchange Act (and Rule 13e-4 and Regulation 14D adopted by the SEC thereunder) only apply to tender offers for public company securities.



Data on the type of securities being purchased in tender offers parallels the broader market for venture deals. When deal values spiked in 2021, that created room for more preferred stock to be included in those deals. The high portion of preferred stock participation in 2021 was more a function of demand for shares by new investors than demand for liquidity by early investors. To satisfy this high demand from new investors, companies chose to allow early investors to sell shares directly to the investors, rather than face the dilution from a primary issuance. The portion of deals with preferred stock has continued shrinking, even as tender offer deal volume has grown significantly in the past year, indicating that tender offers continue to function primarily as a vehicle for common stockholder liquidity.



Tender Offer Buyers
(% of Deal Count, by Year)



While investor-led tender offers have been the historical norm, company repurchases are becoming relatively more common, especially when management liquidity is driving the deal. Determining whether the company or a third party will be the buyer is a decision driven by a combination of negotiated economic terms, tax factors and regulatory considerations for investors[2].[3]

In the extremely company-favorable market of 2021, the prevalence of third-party purchasers peaked, reflecting the willingness of investors to forego liquidation preference and defer to the company's tax priorities in order to participate in deals. The opposite was true in 2023, where the data shows a jump in the percentage of company repurchases as investors were less willing to take on any additional structuring complications.

The data also shows an increase in the prevalence of deals in which the company and a third-party buyer conducted the tender offer jointly and both purchased shares. While still representing only a small portion of total deals, there have recently been some very large, high-profile deals structured in this way.

"Most private company tender offers require third-party funding, even when the company is repurchasing shares. In this respect, whether the named buyer in a tender offer is the company or a third party is more of a structuring decision that the parties negotiate."

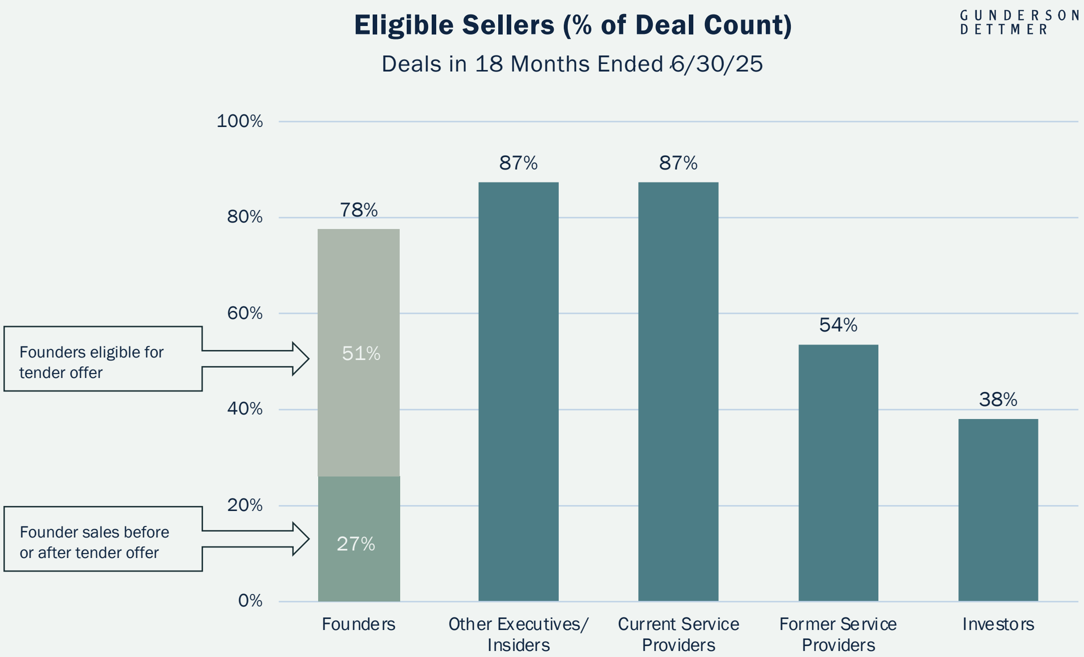
Stephanie Lane
Partner, San Francisco

2 A company could sell preferred stock to an investor and use the proceeds to repurchase shares from existing stockholders, or an investor could purchase shares directly from existing stockholders and have the company exchange the shares for preferred stock—in both scenarios, the money for the tender offer is coming from the investor, and the investor ends up with preferred stock from their investment.

3 For more details about the specific tax interests of companies and investors in tender offers, see *Tender Offers: Threshold Terms to Consider* at https://portal.gunder.com/gdconnect/resources/tender-offers-threshold-terms-to-consider

In these deals, it is not uncommon for the company or the third-party buyers to have specific criteria regarding which shares they will purchase, which are often driven by the parties' tax and accounting priorities. Examples include:

- The company will only purchase shares held >6 months
- Shares sold by officers, directors and 5% stockholders will only be purchased by third-party buyers
- Shares sold by ex-US sellers will only be purchased by third-party buyers
- Shares sold by employees will only be purchased by third-party buyers
- RSUs and options will only be purchased by the company
- Third-party buyers will only purchase common stock and the company will only purchase preferred stock



The data on eligible sellers shows the percentage of deals over the past 18 months in which each of the named groups was allowed to participate and sell shares. The group most often included is current service providers, who were eligible to sell shares in 87% of the deals. Note however that, for each of the named groups, companies will often limit participation to only a defined portion of the group. For example, investors could be limited to holders of a certain series of preferred stock, or former service providers could be limited to individuals whose employment was terminated in a reduction in force. For service providers, companies often limit participation based on years of employment. In 39% of deals in the past 18 months, current and/or former service providers had to meet a years-of-service requirement (typically between 1 and 3 years) to be eligible to participate in the offer.

The figure showing that founders were eligible to participate in 78% of deals reflects both deals in which founders could tender shares in the tender offer, and deals in which the parties negotiated to allow insiders to sell shares prior to or following the tender offer. Founders sold shares in these "outside" transactions in 27% of tender offer deals over the past 18 months, while founders were eligible to participate in the defined tender offers in 51% of the deals.

After choosing which equity holders can participate, parties must also determine the number of shares that eligible holders can sell. While companies have broad discretion in setting the criteria, most companies use a formula based on a percentage of vested holdings. For deals in the past year where eligible shares were based on a percentage of vested holdings, the median percentages were:

- Founders – **20%**
- Other executives/insiders – **20%**
- Current service providers – **20%**
- Former service providers – **28%**
- Investors – **100%**

Spotlight on RSUs in Tender Offers

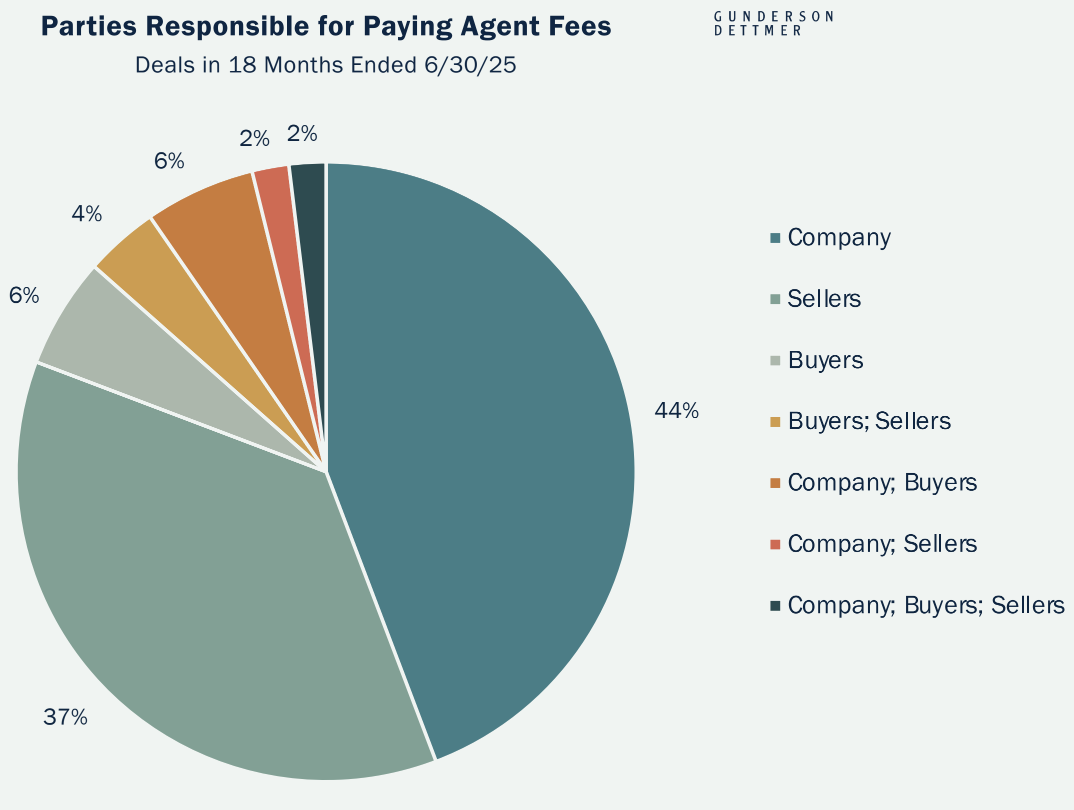
A recent trend has been the use of tender offers to address issues related to expiring equity incentive awards. Companies granted RSUs to employees that were subject to two separate vesting conditions: a service-based vesting condition that lapses over a defined time period and an event-based vesting condition that is fulfilled when the company has a large-scale liquidity event, such as an IPO or acquisition. For tax reasons, these RSUs have a set expiration date, typically seven years from the date of grant. As a result of the slow M&A and IPO markets, companies now have large numbers of RSUs that may hit their expiration dates before the liquidity event vesting condition is satisfied, in which case the RSUs will expire and be forfeited by the holders. If companies amend the RSUs to remove the liquidity event vesting condition and trigger the settlement of the RSUs for shares, these amendments would generate "phantom income" for the employees, who would owe taxes based on the value of the shares they received, even though they would be unable to sell those shares. Multiple companies have addressed this by conducting tender offers in connection with the RSU amendments to facilitate sales of shares by employees to cover the resulting tax liabilities.

"We've seen multiple companies use tender offers with RSU amendments to address expiring awards, but careful tax and accounting planning is key. Companies will want to keep the credibility of vesting restrictions on their other awards (and the resulting tax benefits), so they usually only get one chance at this type of broad adjustment to their RSUs."

Sharon Hendricks
Partner, Silicon Valley

In 24% of deals, service provider sellers were also subject to an overall cap on the number of shares that each could sell. For example, a company might say that current employees can sell 20% of their vested stock and exercised vested options, up to a maximum of $200,000 in gross proceeds.

If former service providers are allowed to sell shares, companies usually either let them participate at the same rate as current employees or allow them to sell 100% of their shares so they can be removed from the cap table. For investors, participation is typically limited to a relatively small number of early investors—for example, the company's Series Seed stockholders—and companies usually allow the defined group to sell 100% of their shares so they can be removed from the cap table.



Only includes tender offers in which a third-party buyer participated.

Tender Offer Fees

Data shows that responsibility for paying agent fees varies based on the parties' negotiation. In over half of the deals over the past 18 months, companies paid some portion of the paying agent fees, which can range from around $15,000 to hundreds of thousands of dollars in the largest deals. When fees are passed along to sellers, the fees typically represent <1% of gross proceeds for the sellers. However, there are deals where seller fees go as high as 5% of gross proceeds when other costs, such as company accounting and legal expenses, are included.