

# Fundraising: The Deal Lawyer's Perspective

**CED: RAISING THE DOUGH**

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# Lawyerly Overview

- **Today, we'll provide a (very) high level summary of the following steps:**
  - **Term Sheet**
  - **Diligence**
  - **Document Drafting**
  - **Closing and Post-Closing**
- **Handouts: You should have received two groups of handouts. We'll refer to them throughout the presentation.**

# Term Sheets: The devil is in the details



**Do I really need to involve my lawyer?**

**[Yes.]**

# Term Sheet Continued...

- **Aren't these “standard”? Can't I use a “form”?**
  - [It Depends. And, as a starting point, sure...]
- **“Forms” (starting points) of certain Term Sheets are publicly available [see handout]**
  - **The devil is in the details. Those forms are good starting points for the high level terms, but there are still choices to be made within even the best forms. Lawyers add value by helping identify those variables and working to get the most favorable terms for the company whenever possible.**
- **Who drafts the TS?**
  - **It depends (lawyerly answer, right?!)- For note financings or SAFE financings, the company can sometimes lead with a Term Sheet, but for venture financings, the Term Sheet will be inbound from the investor.**

# Term Sheet Continued...

- **What are the major points of negotiation?**
  - **Convertible Note Financings:**
    - Many of the terms fall within a market range (interest, maturity, etc.), but certain terms are negotiated such as conversion thresholds, valuation caps (if any), and any special provisions like a change of control premium.
  - **Equity Financings:**
    - **Economics:** Valuation/pricing, liquidation rights and preferences, etc.
    - **Control Rights:** Board of Director appointments, voting rights, information rights, protective provisions, etc.

[See Term Sheet Handouts]

- ***Free Tip: Involving legal counsel at the Term Sheet stage can help the company obtain better terms and can save the company transaction costs over the long run. (Do it.)***

# Diligence: Getting to know you, getting to know *all* about you...

- **What is it?** A review of the legal, financial and commercial/business information and projections
- **Diligence happens (or happens at a deeper level) after a signed Term Sheet; usually the lawyers work with the founder team. The business folks from the investor's team and the company often work together on business diligence.**
- ***Free Tip:* Diligence can drive up deal costs. If your “house” isn't in order, your legal team will be rushing to clean things up prior to (and as a condition of) closing. It's more efficient (and much less stressful) to do things correctly all along rather than waiting until an investment is on the table.**

- **What kind of documents are the lawyers drafting?**
  - **The complexity (and number) of documents depends on the type of financing.**
    - **Range:** a SAFE/Note financing may have one or two substantive documents (a SAFE; or a Note and Subscription Agreement), but a venture financing may have 5-7 substantive documents (more than 200 pages of goodness)- [see chart]
  - **Related Issue: Legal costs**
    - **Legal costs increase as the complexity of the deal increases. [see handout]**

# Document Drafting Continued

- **What are the lawyers doing:**
  - **Good news for your sanity (and your bank account): A lawyer isn't (literally) drafting every word in these documents. Most firms who work in this space have good (and standard) starting points [see handout].**
  - **What we're doing when we're marking up/drafting documents:**
    - **Making sure that the documents accurately reflect the deal terms in the (well-negotiated) Term Sheet**
    - **Making sure that other terms are "market" and that we get favorable movement in the company's favor whenever possible**
    - **We're also working with the board and stockholders (and any other parties) to obtain necessary approvals to do the deal.**
    - **We're drafting ancillary documents that are required to close the financing (**disclosure schedules**, closing certificates, etc.)**



# Closing (\$) and post-closing matters: Show me the money

- **\$\$:** If you're still standing after the documents are finalized and signed, you'll *finally* be able to reap the rewards of your efforts and the investment will hit your account. **\$\$ Congrats! \$\$**
- **Once the cash is in the bank, there are no more lawyers for a while, right?**
  - **Not really. We'll still be buddies for a little while longer, as there are some "exciting" post-closing items that we work on (closing binders, securities filings, updating capitalization tables and ledgers, etc.). While these items seems anticlimactic after the process you just conquered, these actually the first steps in getting your "house" ready for your next raise.**



# Questions?

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