



HERBERT SMITH  
FREEHILLS  
KRAMER

# Navigating Crosswinds

The Australian  
ECM Review  
2025

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# Introduction

We are pleased to present *Navigating Crosswinds: The Australian ECM Review 2025*.

In this publication we cover:

- the key themes shaping equity capital markets in 2025;
- a review of IPO and secondary raising activity across the Australian market;
- some of the novel transactions to come to market in 2025;
- activity in the resources sector;
- Australian regulatory developments;
- key US securities developments; and
- our predictions for 2026.

Should you have any questions in relation to equity capital markets in Australia, please contact our ECM partners who are listed on pages 42 and 43.

**The Herbert Smith Freehills Kramer ECM Team**

# 2025: Key themes

After several years of difficult conditions in equity capital markets in Australia, 2025 saw a pleasing build in momentum in both new listings and secondary raisings. We had high hopes for 2026, but current geopolitical conditions warrant caution.



## IPO activity

Momentum in the Australian IPO market continued to build in 2025. The number of IPOs, average market capitalisation and average capital raised by IPO were all strongly up on recent yearly averages. There were three \$1+ billion listings and a growing number of IPOs with private equity sponsors, both of which have been rare or absent in recent years.

Once again, the metals and mining sector made up more than 50% of the number of IPOs. A significant number of these were companies mining or exploring for gold and copper, reflective of high gold and copper prices.

The number of foreign issuers listing on ASX also increased in 2025, most notably in the metals and mining sector (which added four listings from Canada, one from the US and one from the UK) reflecting ASX's ongoing appeal for resource-focused companies seeking capital and enhanced investor visibility.

This momentum was assisted by ASIC's 'fast-track' IPO reforms, which provided a clearer and faster path from lodgement of the disclosure document to listing for eligible entities. For entities that will have a market capitalisation greater than \$100 million upon listing and no ASX imposed escrow, ASIC announced it would take no action on accepting applications during the exposure period (a practice which is arguably legal anyway so long as contractual acceptance during that period is avoided) and, importantly, would agree to informally review disclosure documents two weeks prior to lodgement to minimise the risk of extensions to the exposure period and the broader timetable.

Entities that have taken advantage of the ASIC 'fast-track' process have been able to shorten their timetables meaningfully, which assists in bringing offers to market in volatile conditions.

Click [here](#) for further details of IPOs in 2025.



## Secondary raisings

As was the case in the IPO market, momentum continued to build in Australian secondary equity capital markets in 2025, with the number of transactions and total capital raised increasing to 285 transactions with approximately \$24 billion raised.

In particular, on the back of rising prices across a range of commodities (including gold, silver, tin, copper, platinum and cobalt), capital raisings in the metals and mining sector made up more than 50% of secondary capital raisings. This included significant raisings from Lynas Rare Earths Limited, NexGen Energy Limited, Arafura Rare Earths Ltd and Liontown Limited, reflecting a continued strong market for critical minerals and rare earths projects.

Raisings to fund M&A fell to 9% of capital raisings in 2025, with the single biggest reason for raising being growth or expansion.

Consistent with themes in recent years, placements continued to dominate the ECM landscape and capital raisings of between \$10 and \$50 million were the most common offer size. Discounts reflected rising share prices across the ASX (particularly in small and mid-caps) with an average discount of 11.63% in 2025 (as compared to 14.66% in 2024).

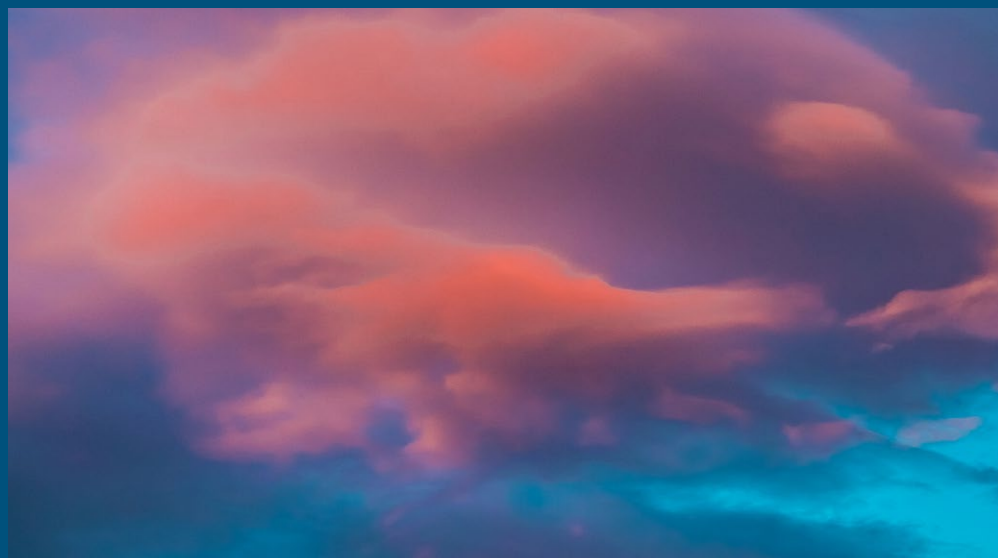
Click [here](#) for further details of secondary raisings in 2025.



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### Key regulatory updates

In February 2025, ASIC released a Discussion Paper which directed significant attention to Australia's equity capital markets. The Discussion Paper was released in conjunction with an economic research report which analysed public equity and private markets and the dynamics between them, posing questions for discussion.

ASIC received almost 100 submissions responding to these questions, including from ourselves, and in June 2025 announced the 'fast-track' process for eligible IPOs discussed above. In November 2025, ASIC also released a capital markets roadmap for the next 12-18 months. This roadmap outlined ASIC's intended focus for public market regulation, including considering lowering thresholds for dual listings, lowering the free float requirement and reviewing IPO publicity restrictions.

ASIC's efforts to encourage IPOs were appreciated, although at the same time ASX amended its Guidance Note 1 to reduce the number of entities eligible for its own 'fast-track' process. The Guidance Note has also been amended to provide a list of positive and negative factors that ASX will take into account for early-stage technology companies in assessing whether the entity has developed to a point where listing is appropriate.

Click [here](#) for further details of the regulatory developments affecting ECM in 2025.



### Outlook for 2026

Early indicators entering 2026 pointed to an encouraging IPO environment, with market commentary suggesting that clients were showing greater preparedness to undertake IPOs in the coming year. This optimism was underpinned by a growing pipeline of IPO candidates and improved regulatory settings, including ASIC's fast-track IPO reforms.

However, heightened geopolitical uncertainty, particularly the escalation of conflict in the Middle East, has more recently weighed on market confidence as oil prices, inflation and interest rates have created significant uncertainty. As a result, our sense is that the majority of IPO candidates are taking a more cautious approach to launching early-year processes, with activity increasingly expected to concentrate in the second half of 2026 as greater macro-economic clarity emerges. Notwithstanding near-term volatility, we expect ASIC's fast-track IPO reforms to act as a meaningful tailwind for the Australian IPO market in 2026.

While private capital will continue to pursue private exits or sell to strategic acquirers, an improvement in IPO conditions should increase the likelihood that mature private capital held assets will again feed the public market pipeline, so long as global markets hold up under current political stresses.

We also expect to see a strengthening in secondary market activity in 2026, assuming current global tensions do not lead to a major market correction.

Click [here](#) for further details of the 2026 outlook.



# 2025: IPOs by the numbers



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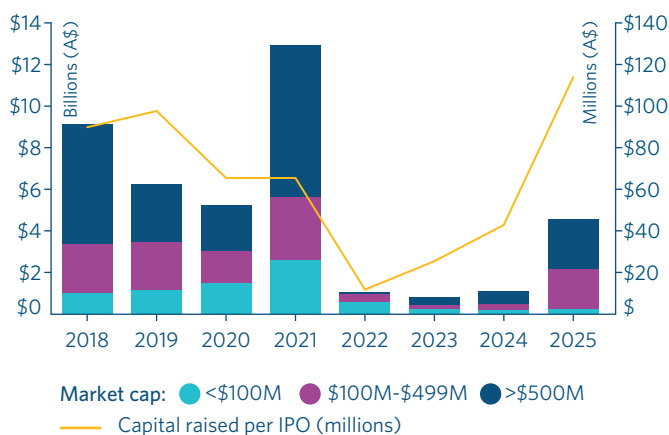
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## Building momentum in the Australian IPO market

Momentum in the Australian IPO market continued to build in 2025.

In particular, 2025 saw the recovery of large-scale listings – there were three issuers who debuted on ASX with a \$1+ billion market capitalisation (Greatland Resources, Virgin Australia and GemLife) and each raised more than \$400 million. Herbert Smith Freehills Kramer acted for GemLife on its IPO and the joint lead managers to the Greatland Resources IPO. 2025 also saw a growing number of IPOs with private equity and venture sponsors, including Virgin Australia (Bain Capital), BMC Minerals (Global Natural Resources Investments), Carma (Tiger Global and General Catalyst) and Saluda Medical (Fidelity and TPG, amongst others).

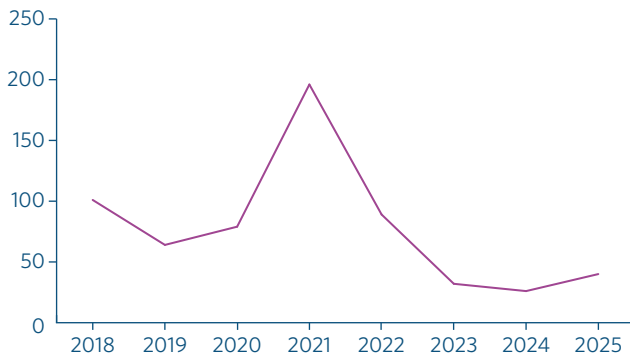
## Capital raised by market capitalisation and per IPO 2018-2025



\*See notes on methodology at the end of this article.

Whilst the total number of IPOs is still below pre-2022 averages, there remain a sizeable number of prospective candidates who have delayed listing due to market conditions across 2023, 2024 and 2025.

### Number of IPOs 2018-2025



### ASIC fast-track

In June 2025, ASIC announced two reforms to provide a clearer and faster path from lodgement of disclosure documents to listing for eligible entities. For entities that will have a market capitalisation greater than \$100 million upon listing and no ASX imposed escrow, ASIC announced it would take no action on accepting applications during the exposure period and would agree to informally review disclosure documents two weeks prior to lodgement to minimise the prospect of extensions to the exposure period and the broader timetable.

Since that time, some (but not all) eligible entities have taken advantage of this process and have been able to shorten their timetables accordingly. Carma had the shortest period between

prospectus lodgement and commencement of trading at two weeks and six calendar days (14 business days). Given Carma did not have conditional and deferred settlement trading, we consider it is possible that timetables could be even shorter in 2026.

### Use of proceeds

Outside of the Mining & Materials industry (where funds raised were primarily used for exploration and development), funds raised through IPOs were primarily used for business expansion (eg Saluda Medical utilised 42% of funds raised to expand its sales team) or research and development, or to pay down existing debt (including shareholder debt). Other significant uses of proceeds were to fund acquisitions for immediate scale (eg GemLife and StepChange) or for future acquisitions (eg Advanced Innergy).

### Forecast length

Only seven of the 40 issuers prepared financial forecasts in 2025, with an average forecast length of 10 months from the date of the prospectus (ie 6 or 12 month forecasts). But for one issuer, the issuers that did provide forecasts were generally amongst the largest listings of the year.

The level of issuers providing forecasts may seem low, but note that the most prevalent sector for listings is mining and resources, including early-stage companies, that do not generally provide them. Another growing sector is investment entities such as listed investment trusts, which would also not be a natural candidate for a financial forecast.

Issuers of scale that did not provide full financial forecasts typically provided some other metrics or targets to assist investors to value the company, like production guidance for mining companies. Greatland Gold and BMC Minerals took the latter approach.

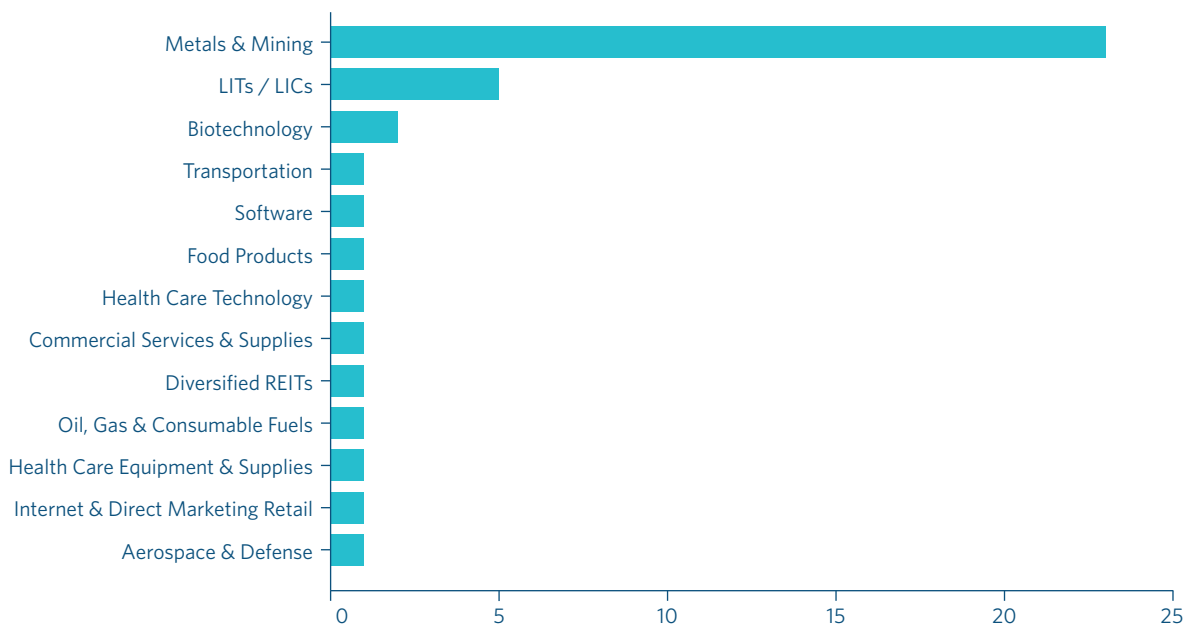


### Sector spotlights

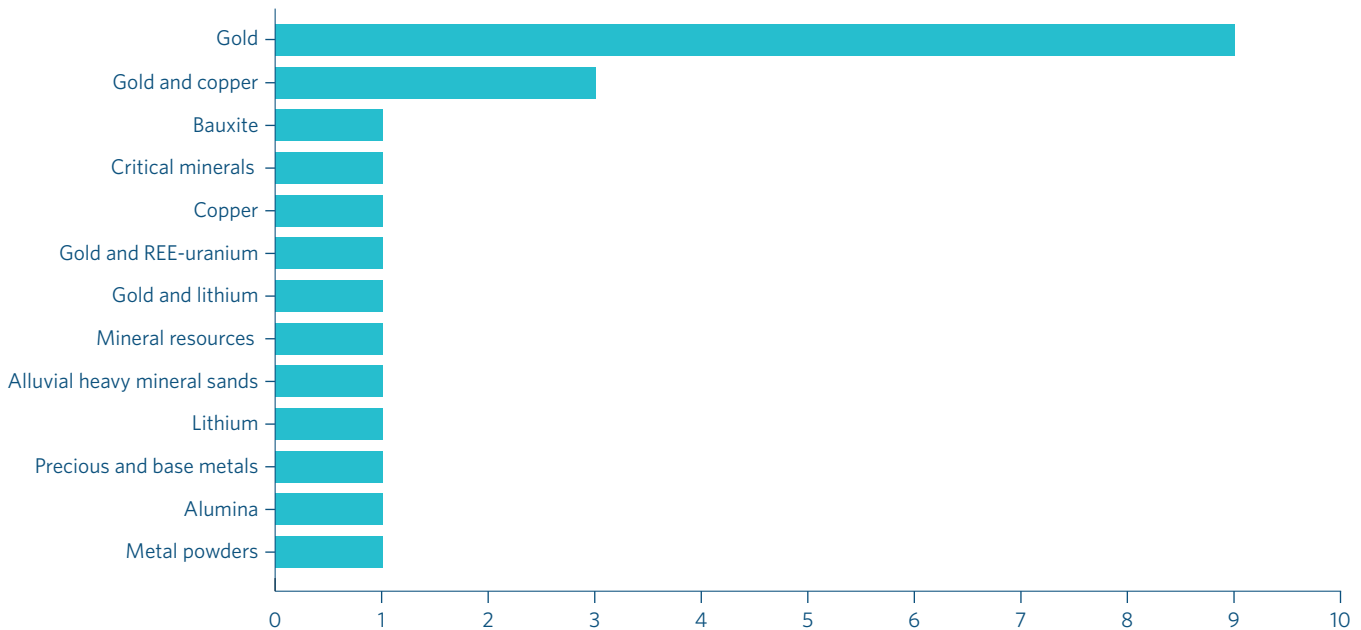
The largest industry group represented amongst IPO candidates in 2025 was the Metals & Mining industry with 23 IPOs reflecting the ASX's strong reputation as a global hub for metal and mining companies. Gold miners (of which there were 16) had a particularly good year and strong second half, reflecting the surge in gold prices across 2025.

The trend of growth in Listed Investment Trusts (**LITs**) and Listed Investment Companies (**LICs**) continued in 2025, with four new issuers added to ASX across the year. Three of these issuers (MA Credit Income Trust, La Trobe Private Credit Fund and Revolution Private Credit Income Trust) offered investors exposure to private credit investments. Herbert Smith Freehills Kramer acted for MA Credit Income Trust on its IPO. The other two issuers (Dominion Income Trust 1 and WAM Income Maximiser Limited) offered investors fixed income-like exposure.

### IPOs by sector 2025



### IPOs from the 'materials' sector 2025



## Escrow

The average number of ordinary securities subject to escrow remained higher than long-term averages for a third year in a row at 45% of total outstanding ordinary securities, whether imposed by the ASX or voluntarily restricted by the issuer.

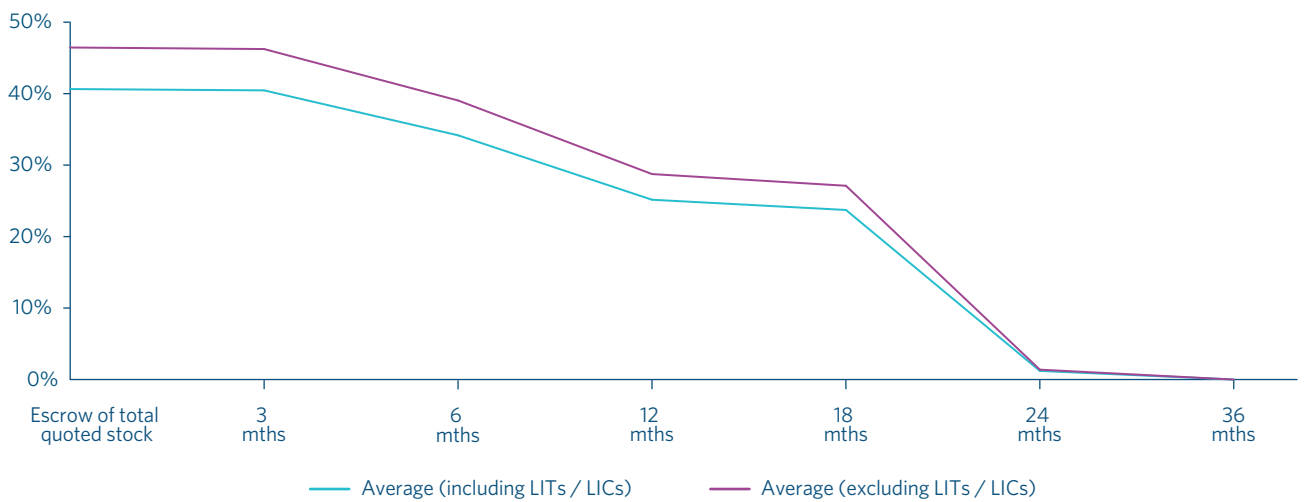
### Timing of escrow release

Where securities were subject to voluntary escrow, the timing of release was most commonly tied to the release of financial results (noting mandatory ASX escrow is tied to the date of admission to ASX's official list) with no option for early release for financial/share price targets in most cases.

Building on the approach taken in Guzman y Gomez in 2024, in the case of Virgin Australia, Bain Capital would be able to release 25% of its securities from escrow early after the date of release of December 2025 results provided the volume-weighted average price of Virgin Australia shares for any 10 consecutive trading days following release of the results exceeded the IPO price by at least 20%. In the case of 6KA Additive, certain shareholders would be released from a tranche of voluntary escrow early if the 60-day volume-weighted average price of the Company's CDIs exceeded three times the IPO price at any time.

The average release profile of IPOs is set out below.

### Average restricted security release profile 2025 IPOs

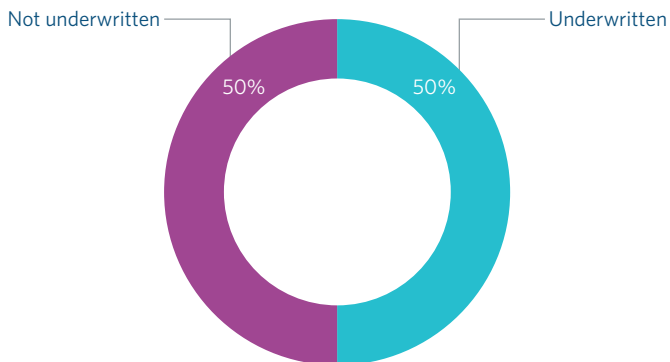


### Underwriting

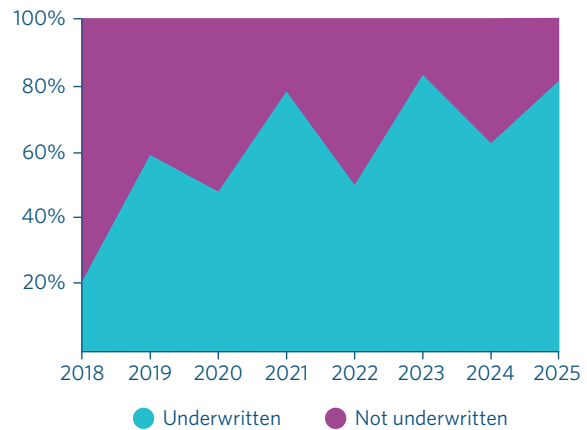
The percentage of underwritten IPOs rose in 2025 to a high of 50% of all IPOs and was higher again, as is typical, for issuers with market capitalisations above \$100 million.

These figures continue the longer term trend of an increase in the level of underwriting of IPOs.

#### Percentage of all IPOs underwritten 2025



#### Percentage of underwritten IPOs over \$100M market capitalisation 2018-2025 (excluding LITs/LICs)

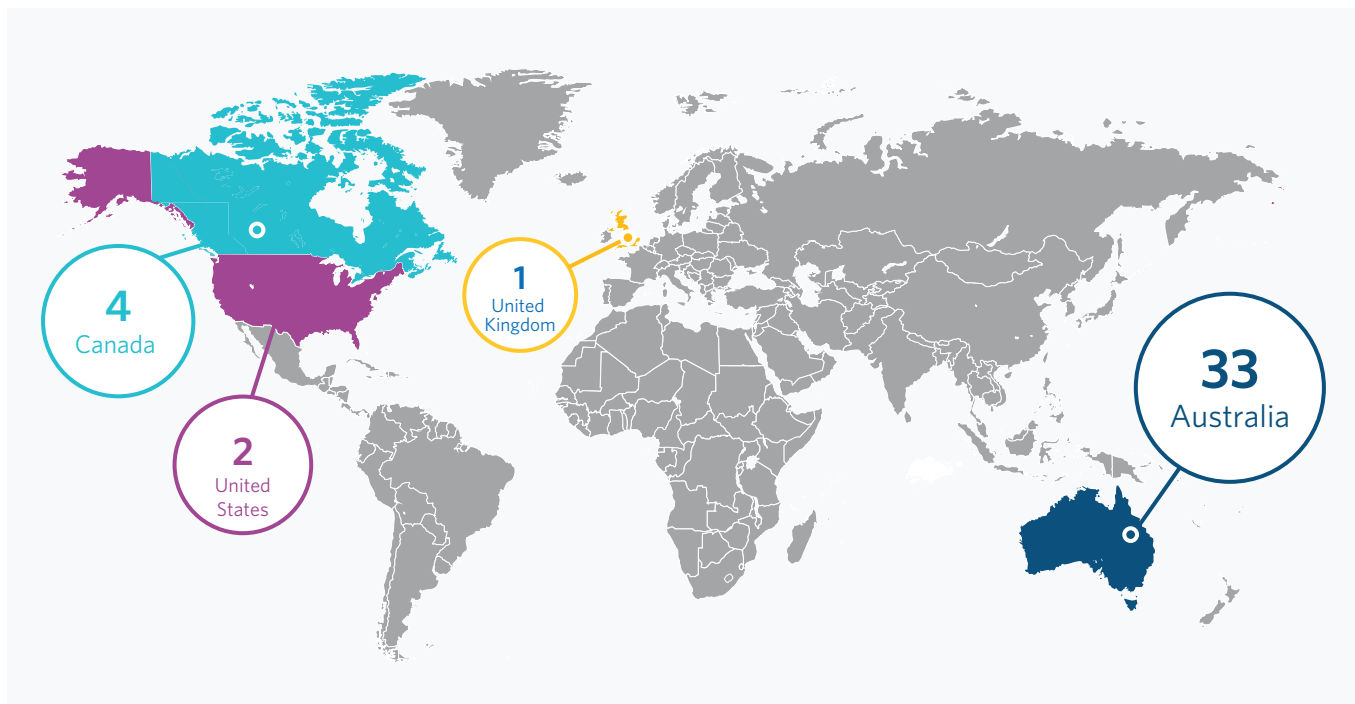


Note: as LITs and LICs are generally not underwritten due to their different nature, they have been excluded from the above graphs.

### Geographic spread

2025 was again largely made up of Australian-incorporated issuers, with Canada (BMC Minerals Ltd, Temas Resources Corp, Orezone Gold Corporation and Robex Resources Inc), the United States (GKA Additive, Inc and Saluda Medical, Inc) and the United Kingdom (Ariana Resources plc) also represented.

#### Jurisdiction of issuer incorporation 2025



Note: this figure does not include issuers incorporated in Australia which have significant strategic, commercial or investor links outside Australia, in which case the non-Australian component would be higher.

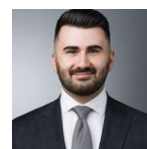
Note on methodology: Data in this '2025: IPOs by the numbers' section includes all new listings on ASX in the period 1 January 2025 to 31 December 2025, other than AQUA and debt listings. In previous years, PDS listings (including REITs) were also excluded from our data set and are not reflected in 2018 to 2024 figures referenced above but have been included in the 2025 dataset. This has resulted in the 2025 dataset including four listings (Dominion Income Trust 1, La Trobe Private Credit Fund, MA Credit Income Trust and Revolution Private Credit Income Trust) that would not otherwise have been included had the previous methodology been implemented. Market capitalisation is based on the issue price of securities multiplied by the total securities on issue on that date.

# 2025: Secondary raisings by the numbers



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## Introduction and methodology

The Australian secondary equity capital market proved to be strong in 2025, with 285 transactions raising approximately \$24 billion, up from 225 transactions raising \$20.6 billion in 2024.

This article builds on our review of secondary raising activity in 2024 ([2024 Review](#)) and analyses key trends observed in 2025, including offer structures, transaction sizes, pricing discounts, use of proceeds, underwriting arrangements and sector participation. We also compare secondary raising activity in 2025 with that seen in 2023 and 2024.

Consistent with last year, our analysis focuses on transactions in excess of \$10 million, capturing a significant segment of the market. Where relevant, we also consider

transactions exceeding \$50 million (**\$50 million Threshold**), recognising that trends at the upper end of the market can diverge materially from those evident in smaller raisings.

In addition to the transactions considered in the 2023 and 2024 Reviews, the data analysed for the purposes of this article comprises transactions recorded on Connect4 as at 31 December 2025 as having occurred in 2025. This data was supplemented by a review of relevant market announcements. We have excluded non-share and non-CDI secondary raisings, capital notes transactions and strategic placements, as these structures involve features not typical of standard equity capital raisings and would otherwise distort the analysis.

### Offer structures

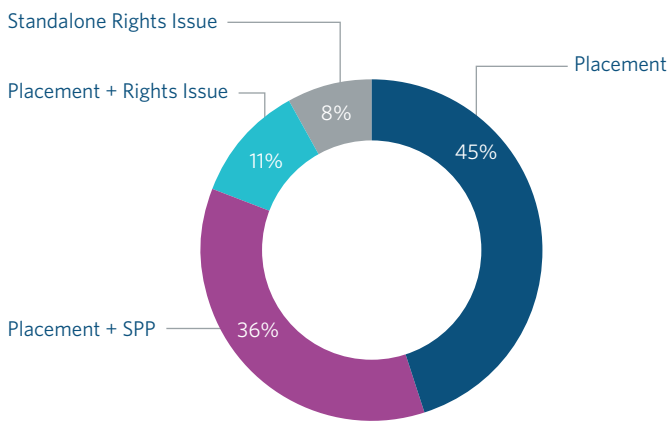
In 2024, for transactions exceeding the \$50 million Threshold, standalone placements were the most common offer structure, accounting for 33% of deals. These were followed by combined placement and share purchase plan (SPP) (32%), and combined placement and rights issues (23%).

A similar pattern was observed in 2025, with placements continuing to dominate the Australian ECM landscape for transactions above the \$50 million Threshold, representing 45% of deals. Combined placement and SPP transactions again featured prominently (36%), while combined placement and rights issue structures accounted for a smaller proportion of activity (11%).

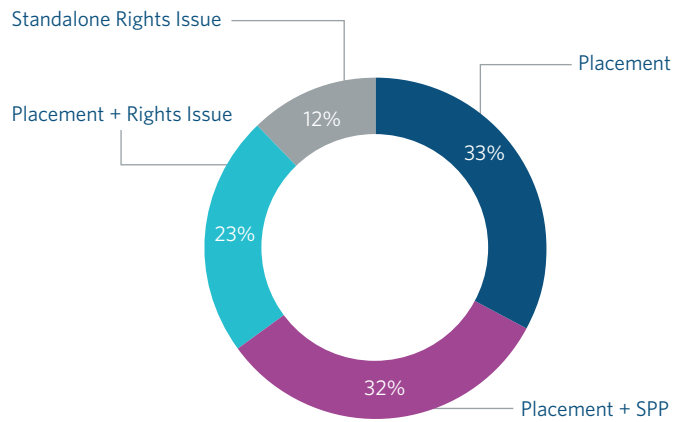
As expected, standalone placements were the dominant offer structure for transactions below the \$50 million Threshold, accounting for 72% of deals. This represented a further increase from 2024, when placements comprised 63% of transactions in this segment.

Of the rights issues analysed, all were structured as accelerated non-renounceable entitlement offers (ANREOs), with the exception of three renounceable transactions. These comprised a standalone accelerated renounceable entitlement offer (AREO) undertaken by Geopacific Resources Ltd, and combined AREO and placement transactions undertaken by DigitalX Ltd and Ionic Rare Earths Ltd.

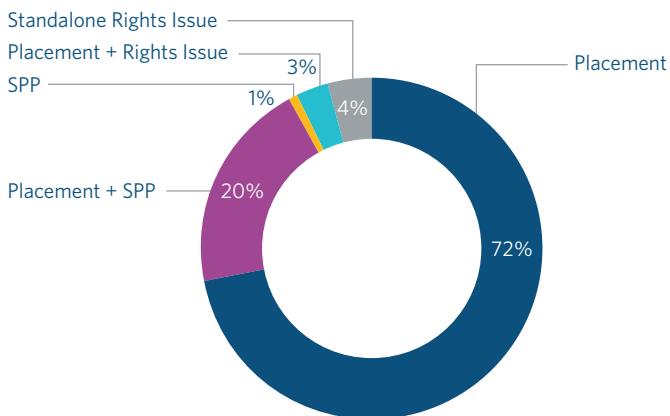
#### Offer type (over \$50 million threshold in 2025)



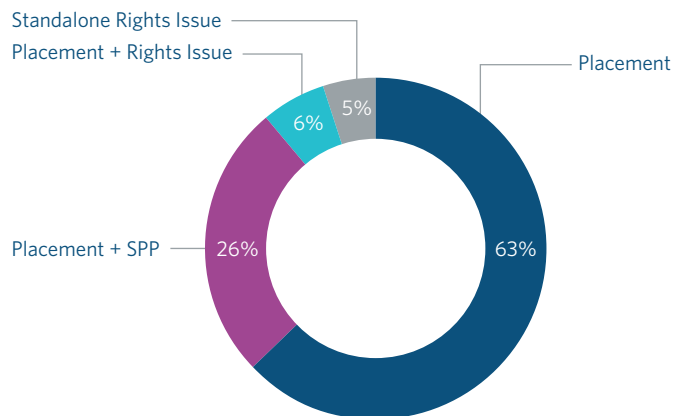
#### Offer type (over \$50 million threshold in 2024)



#### Offer type (between \$10 and \$50 million in 2025)



#### Offer type (between \$10 and \$50 million in 2024)



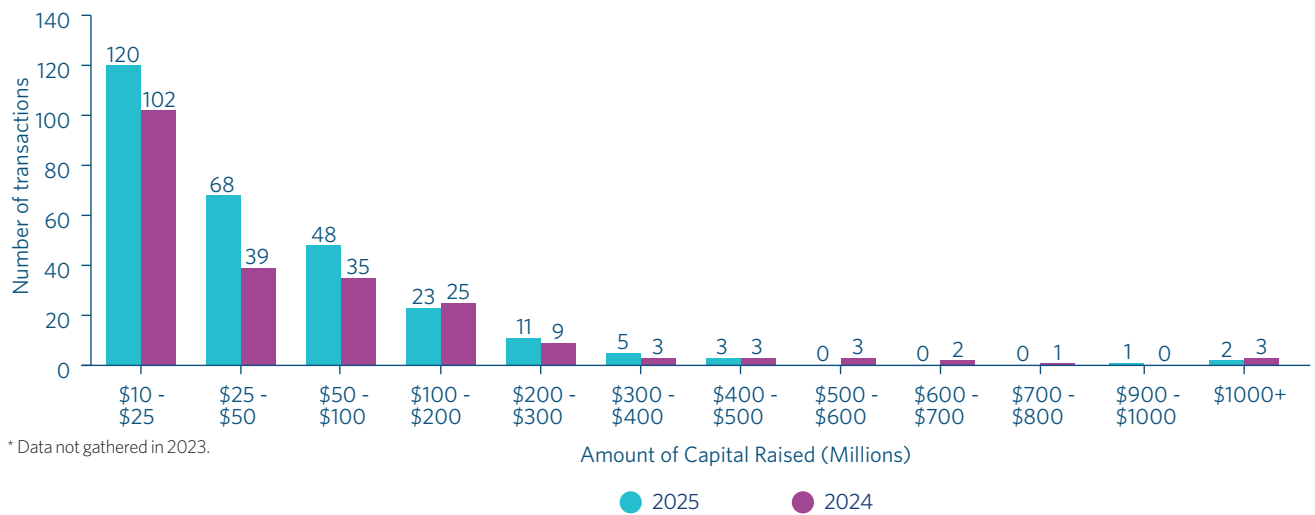
In our experience, issuers at the lower end of the market are more likely to require immediate equity funding, often have a smaller retail shareholder base, and are better positioned to rely on enhanced placement capacity under ASX Listing Rule 7.1A. As such we are not surprised that the smaller deals in 2025 had a greater proportion occurring as placements, and this is consistent with past data. However, we are surprised by the apparent trend across the market on the increasing reliance on placements to the exclusion of other offer structures.

Viewed through a different lens, while placements in larger transactions are more commonly accompanied by a share purchase plan to facilitate retail participation, this feature is notably less prevalent in transactions below the \$50 million Threshold.

### Offer size

The distribution of offer sizes in 2025 broadly mirrored that observed in 2024, with an increased number of transactions recorded across most size categories. Consistent with recent years, the greatest concentration of activity occurred in the \$10 million to \$50 million range, which continued to account for the largest proportion of secondary raisings.

### Number of transactions by offer size

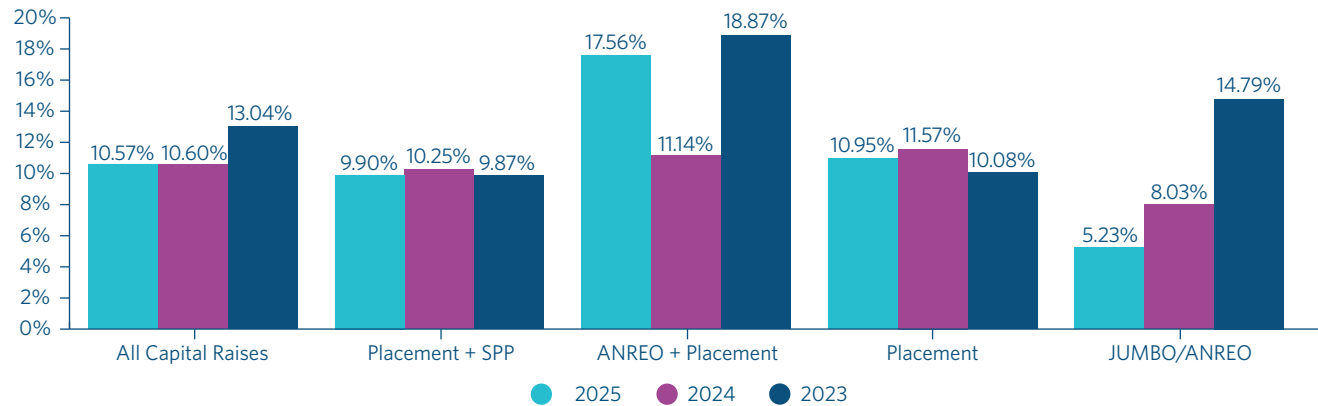


## Discounts

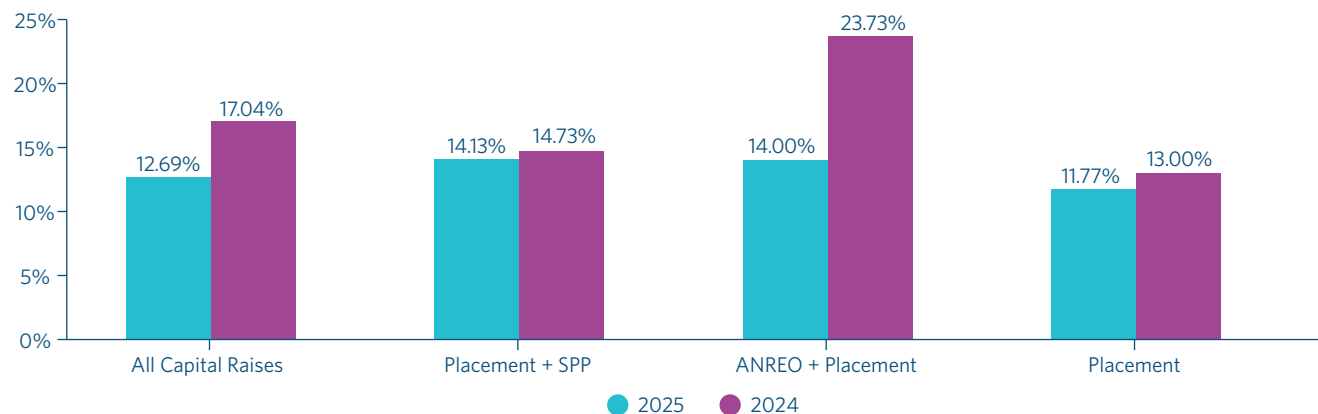
Discount levels in 2025 remained in line with the bullish market we saw in 2024. The average discount to the last closing price remained steady from 10.60% in 2024 to 10.57% in 2025 for transactions over the \$50 million Threshold. When considering all deals, the average discount was lower at 11.63% in 2025 as compared to 14.66% in 2024. Again, this is possibly from the large proportion of transactions that were undertaken by placement (as discussed further above).

Among specific offer types, ANREO and Placement deals saw the highest average discount across the board, with a 16.49% average variation. Placement + SPP transactions recorded the highest variation, with transactions below the \$50 million Threshold exhibiting an average discount of 14.13%, whereas transactions above the \$50 million Threshold had a much lower average discount of 9.90%.

### Average discount to last close (over \$50 million)

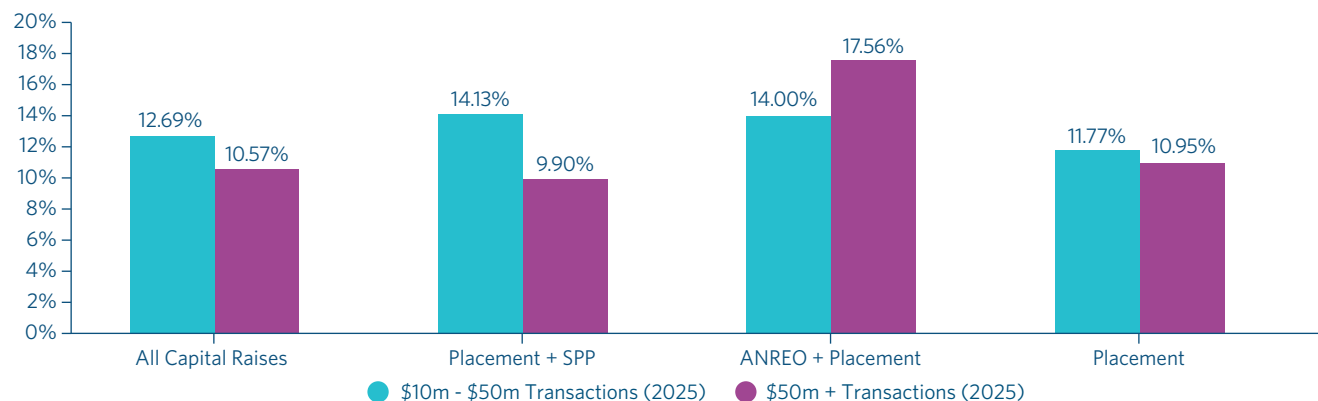


### Average discount to last close (between \$10 million and \$50 million)<sup>1</sup>



As can be seen above, 2025 was a better year for the small end of the market, with lower discounts seen across all offer structures when compared to 2024.

### Comparison (\$10 million to \$50 million vs \$50 million plus)



1. Transactions less than \$50 million were not captured in our 2023 review.

Trends between discount rates and the size of the transaction also continued through from 2024 with larger companies typically able to command tighter discounts from investors.

Transactions in the \$10 million - \$50 million range exhibited higher average discounts across most offer types, with an overall average discount of 12.69%, compared to 10.57% for transactions exceeding \$50 million in 2025. The notable exception to this was the ANREO + Placement category however this was impacted by two outliers being Syrah Resources Limited and Peninsula Energy Limited who were small issuers conducting large deeply discounted raisings after an extended period of suspension. When removing these companies from our calculation, we see the average discount reduce from 17.56% to 7.94%. For rights issues the discounts to the theoretical ex-rights trading price (TERP), slightly increased from 9.85% in 2024 to 11.48% in 2025, however this was also impacted by the two offers mentioned above. When removing those two companies from the analysis, the average discount to TERP was 8.38%.

### Offer price (discount to TERP)



### Offer price (discount to last closing price)

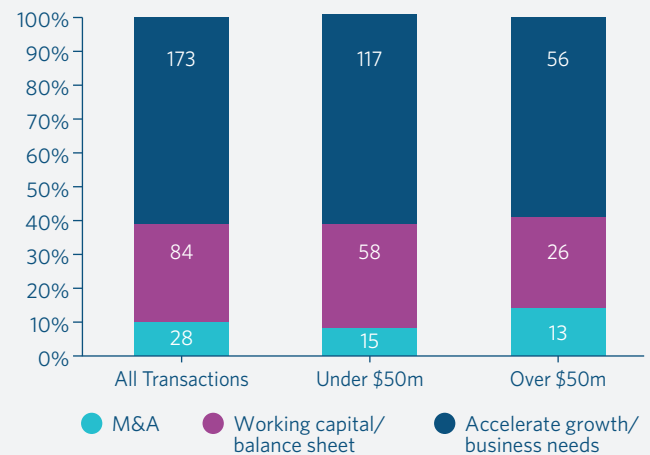


## Purpose of raising

Despite there being a larger number of transactions this year, the proportion of transactions being undertaken for M&A purposes decreased from 23.8% in 2024 to 9.8% in 2025.<sup>2</sup>

Interestingly, the number of transactions (including for transactions under the \$50 million Threshold) to accelerate growth considerably increased from 35.56% in 2024 to 60.7% in 2025.

### Purposes of capital raising by transaction size



When comparing offer pricing by purpose (including transactions below the \$50 million Threshold), we observed that discounts to last closing price for capital raisings undertaken to fund acquisitions (average of 10.49%) were broadly comparable to those undertaken for non-acquisition purposes (average of 11.98%). This represents a narrower divergence than that observed in 2024, when issuers seeking to fund acquisitions obtained on average a materially lower discount (10.01%) compared with raisings for non-acquisition purposes (15.50%). It appears as though the market was more comfortable in 2025 supporting companies with cash for a range of purposes.

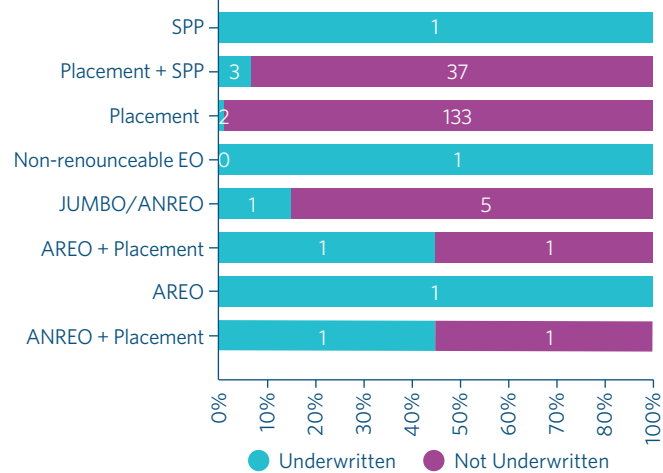
2. We excluded from our analysis transactions where shares were placed directly to vendors in an M&A transaction.

### Underwriting

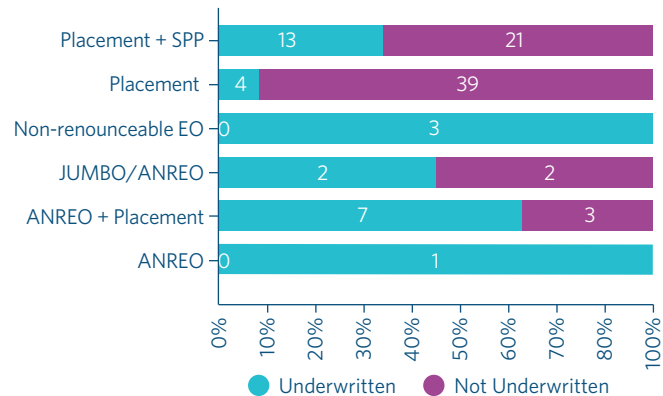
In 2025, there was a marked decline in the proportion of fully underwritten transactions compared to 2024. The data suggests that issuers are increasingly favouring partially underwritten or non-underwritten structures, likely as a means of reducing transaction costs.

This trend is particularly evident in larger transactions. In 2023, approximately 80% of offers above the \$50 million Threshold were underwritten, declining to 58% in 2024 and falling further to 27.3% in 2025. One contributing factor is the increased prevalence of placements in 2025 relative to 2024 and 2023. Placements are typically underwritten less frequently than entitlement offers, given the greater certainty issuers have around pricing and the quantum of capital to be raised. This can be seen in the graphs below which show the vast majority of placements are not underwritten.

#### Under \$50 million

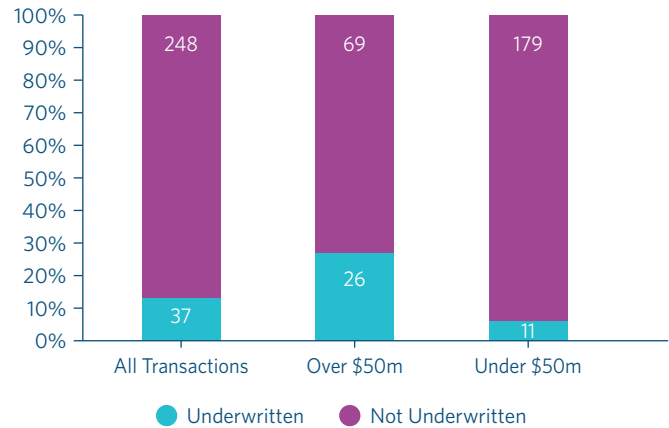


#### Over \$50 million



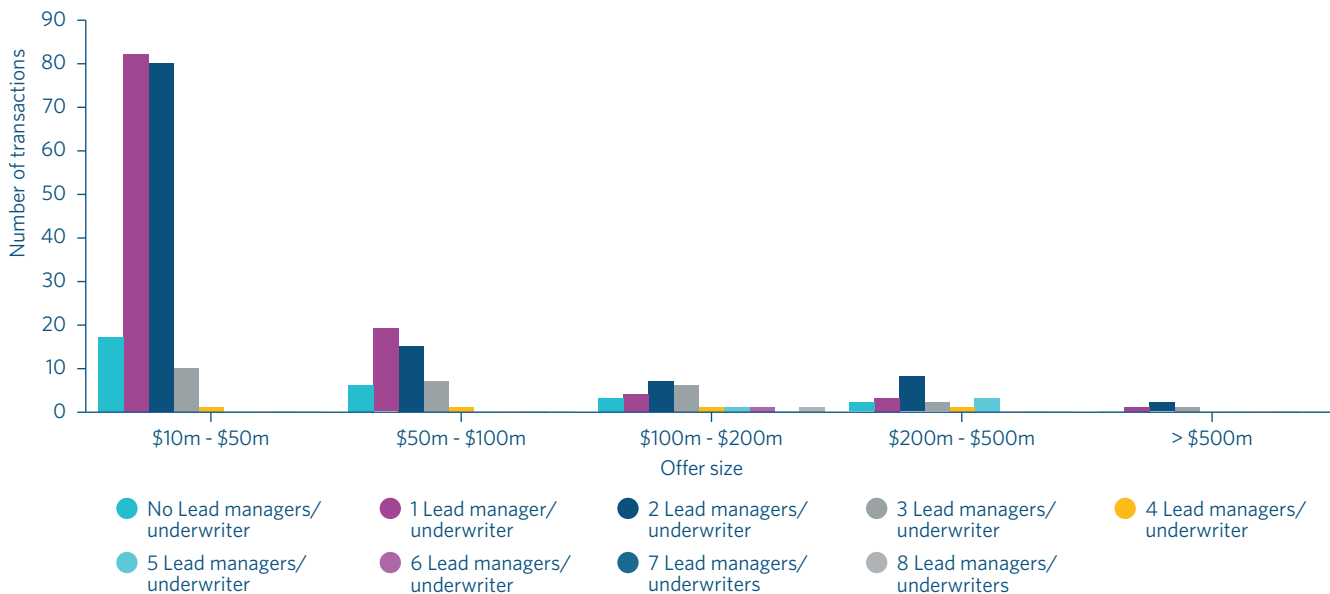
As expected, the reduced occurrence of underwriting was even more pronounced at the lower end of the market, with only 5.7% of transactions below the \$50 million Threshold being underwritten.

#### Underwritten vs. Non-Underwritten transactions



Consistent with our data set for 2024, we did not notice any particular correlation between raise size and number of lead managers/underwriters on the transaction.

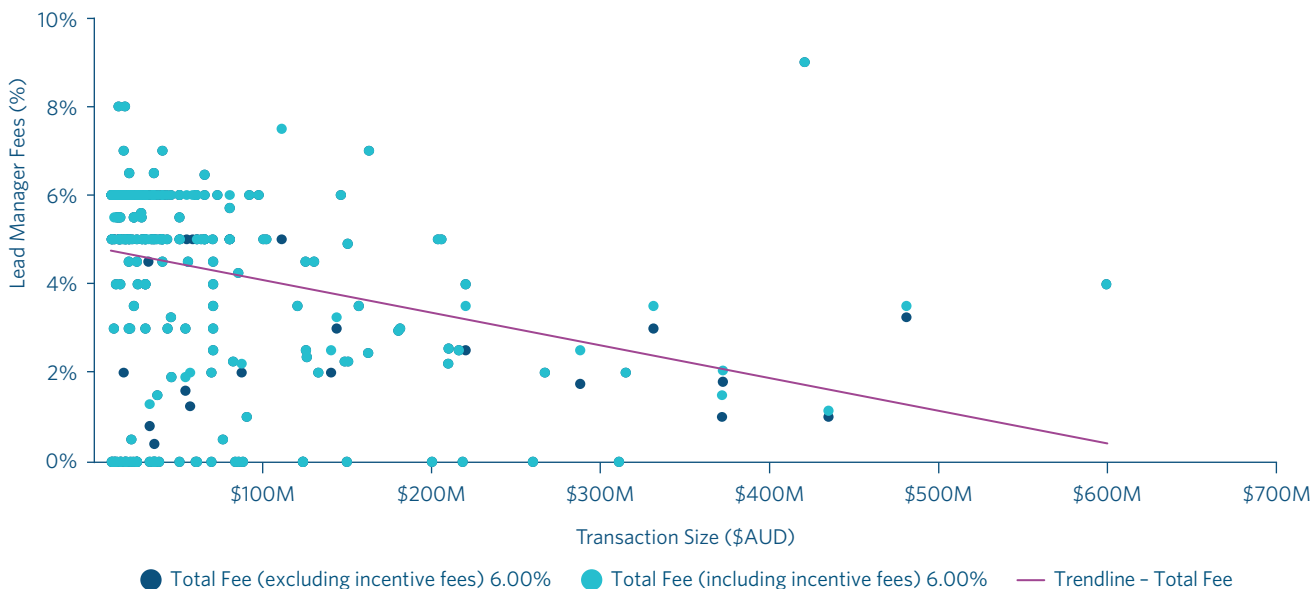
### Number of Lead managers-underwriters per transaction relative to offer size



Also consistent with our findings in 2024, for combined placements and SPPs, generally only the placement was underwritten, consistent with our observation of usual market practice. This is likely because issuers are usually not particularly reliant on funds raised via SPPs (which are capped at \$30,000 per shareholder under relevant law and are usually used as a fairness measure to retail shareholders) and due to the enhanced underwriting risk for an SPP (given the length of time an SPP is open and the nature of the investors).

In terms of fees, the average underwriting/management fee as a percentage of offer size remained broadly stable at 3.30% in 2024 and 3.87% in 2025 for transactions over the \$50 million Threshold, with slight variations depending on deal size and complexity. In line with our expectations and experience, the average underwriting/management fees for transaction less than the \$50 million Threshold was higher at 5.35%.

### Underwriting/Lead manager fees plotted against transaction size



### Sector performance

The Metals & Mining sector further grew its dominance in our data set both by number of transactions (179 up from 100 in 2024) and total capital raised (\$9.3 billion up from \$4.93 billion in 2024). Metals & Mining transactions also dominated the higher end of the market accounting for 58% of all deals exceeding the \$50 million Threshold. This was an increase from 30.49% of all deals in 2024.

The Software & Services segment experienced notable growth, securing \$2.28 billion across 6 deals, a significant increase from 3 deals in 2023, driven by demand for digital transformation and enterprise software. The size of these transactions was somewhat skewed by two secondary raisings undertaken by NextDC, which combined accounted for 90% of the total capital raised (\$1.99 billion) in this sector.

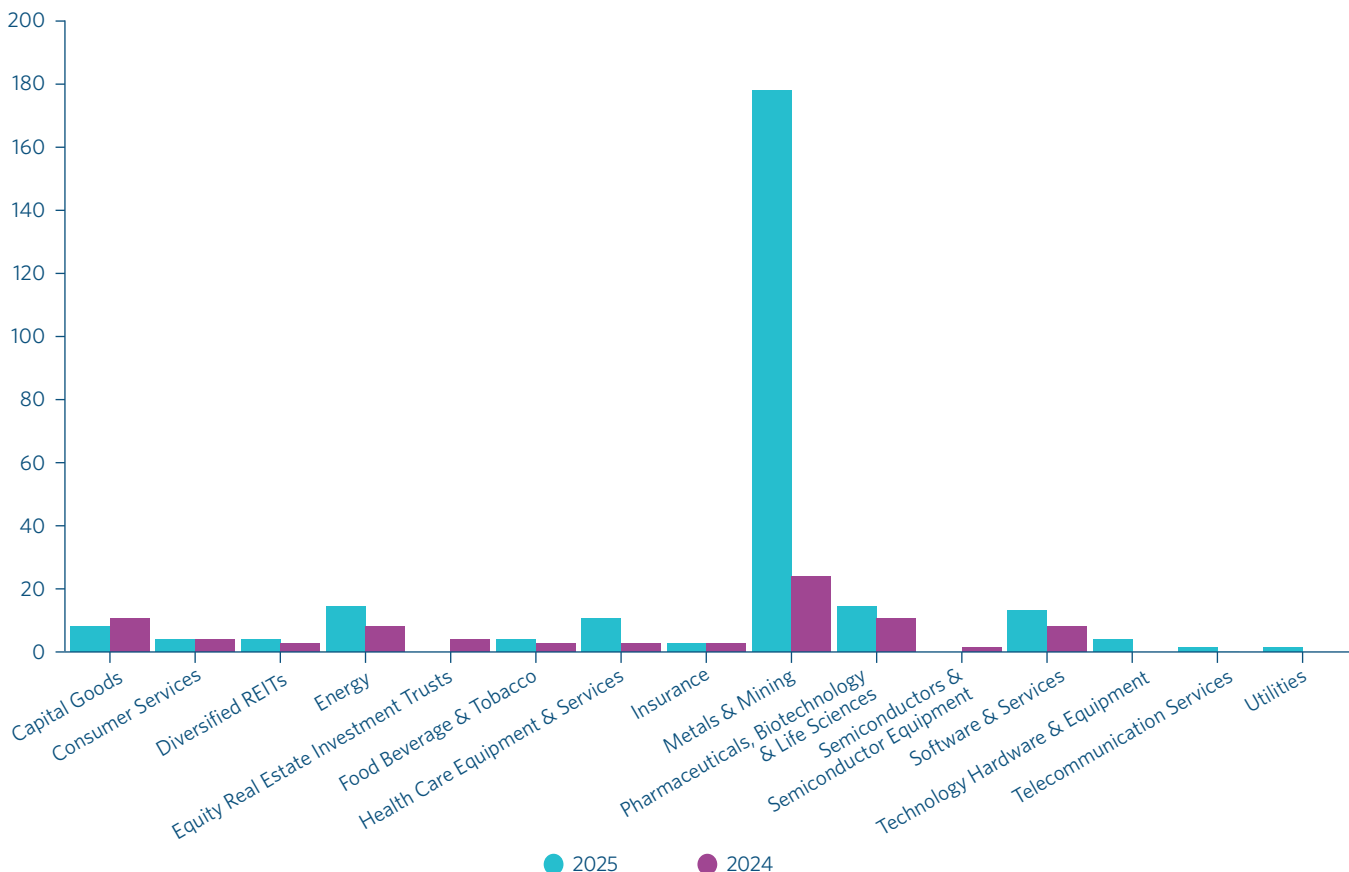
The Health Care Equipment & Services sector saw a drop in total raise size (\$394 million in 2025 down from \$1.1 billion in 2024). This was due to outliers being Ansell Ltd and Sigma Healthcare both raising over \$400 million each in 2024 (their raises were ten times larger than the next-largest raise in the industry).

You may recall that the Pharmaceuticals & Life Sciences sector saw a substantial uptick in 2024 growing from 1 transaction in 2023 to 8 transactions in 2024 exceeding the \$50 million Threshold. In 2025, the sector had 3 deals exceeding the \$50 million Threshold, raising \$609 million. When considering all raises in the Pharmaceuticals & Life Sciences sector, \$872 million was raised in 2025 compared to \$1.1 billion in 2024. Despite the dip, we consider that interest in healthcare innovation and life sciences remains strong.

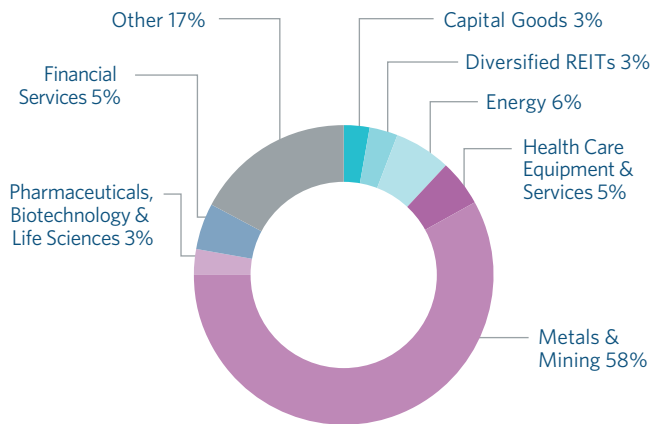
The largest swing was in the Diversified REIT sector growing from \$440 million raised in 2024 to \$4.2 billion in 2025 given Goodman Group’s \$4 billion fully underwritten placement and SPP to fund data centre growth opportunities. Given the rise of AI we expect more activity to occur to fund data centre and related activities.

The Energy sector remained strong, raising \$1.1 billion across 11 deals in 2025, reflecting continued investment in renewables and traditional energy projects.

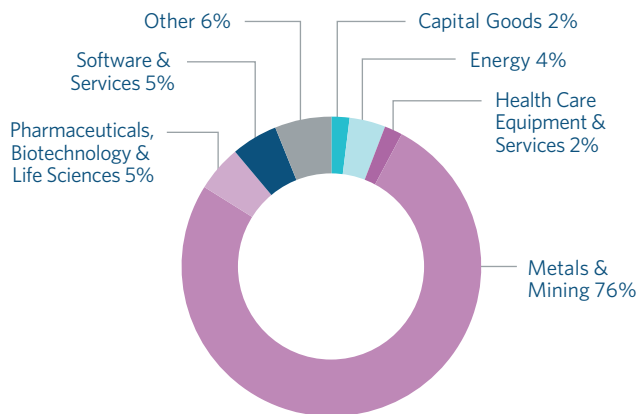
### Sector comparisons (2024 and 2025)



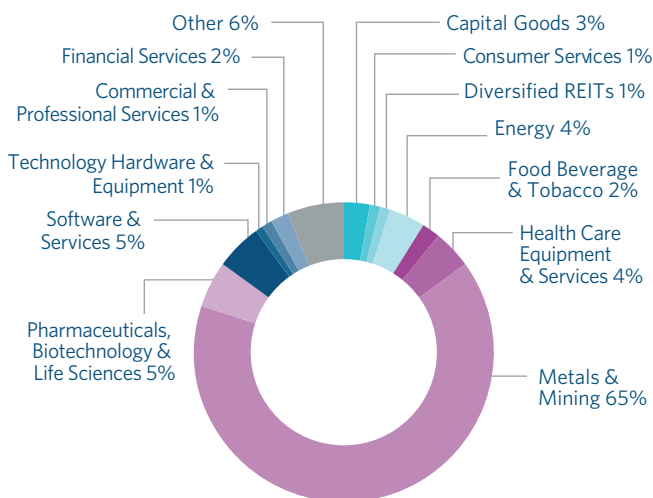
**Transactions over \$50 million (2025)**



**Transactions between \$10 million and \$50 million (2025)**



**All transactions (2025)**

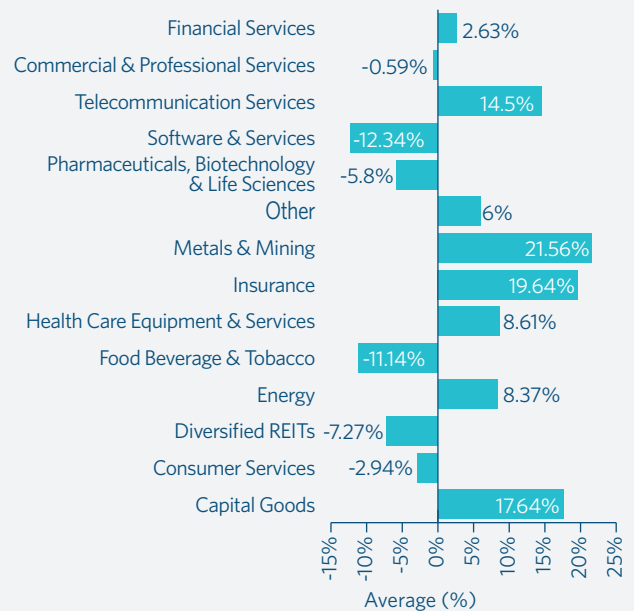


**Share price performance**

Like last year, we looked at share price performance 30 days post-allotment<sup>3</sup>. Post-raise performance varied significantly across industries, with certain sectors outperforming while others faced downward pressure. Sectors such as insurance, metals and mining and capital goods, may have been driven by continued investor confidence and favourable market conditions, however in contrast, sectors like software & services struggled post-raise, which may reflect sector-specific headwinds (for example with the rise of AI).

Interestingly, although pharmaceuticals and biotechnology stocks showed strong performance last year, there was a noticeable decline in share price performance post raise this year. However similar to 2024, the energy sector growth was strong and likely driven by favourable commodity prices and ongoing global demand.

**Post-raise share price performance by industry**



**Conclusion**

Overall, 2025 was a strong year which saw greater activity in the secondary market, a continuation of tight discount levels and larger offer sizes. Companies have continued to tap capital markets to fuel expansion, restructure debt, and pursue strategic growth.

3. Issue of shares under the final component of the offer.

# Novel transactions in the Australian market



As outlined earlier in this review, 2025 was marked by a series of firsts that reshaped expectations of what is possible for Australian capital markets. Two of the most notable 2025 transactions, both of which Herbert Smith Freehills Kramer advised on, were the initial public offering of GemLife Communities Group, which was the first company to use ASIC's new fast-track disclosure process, and Light & Wonder's transition from a dual Nasdaq/ASX listing to a sole standard ASX listing, which is unprecedented for a large US company listed on an American exchange.



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## GemLife Communities Group

Herbert Smith Freehills Kramer acted for GemLife Communities Group (**GemLife**) on its \$750 million IPO and listing on ASX, commencing trading with an initial market capitalisation of \$1,582 million. The IPO was the largest IPO by proceeds raised in 2025 and has traded strongly in its first six months since listing.

Founded in 2015 as a joint venture of the Puljich and Thakral families, GemLife is a leading pureplay developer, builder, owner and operator of land lease communities. GemLife has communities in various stages of development (from 'Greenfield' land to active communities) in Queensland, New South Wales, Victoria and South Australia.

### ASIC 'fast-track' process

GemLife was the first issuer to utilise ASIC's new 'fast-track' process for disclosure documents. The new process was announced in June 2025 and is designed to provide a clearer and faster path from lodgement of disclosure documents to listing for eligible entities.

The 'fast-track' process is available for 'eligible entities', being those entities that will have a market capitalisation greater than \$100 million upon listing and to which ASX will not apply mandatory escrow. For such entities, ASIC announced it would take no action on accepting applications during the exposure period (which is prohibited under the Corporations Act) and would agree to informally review disclosure documents two weeks prior to lodgement to minimise the prospect of extensions to the exposure period and the broader timetable.

This process allowed GemLife to open its offer on the date its disclosure document was lodged with ASIC and GemLife's exposure period was not extended (GemLife engaged with ASIC's comments on the draft disclosure document in the two weeks prior to lodgement).

We consider the combined effect of these changes should allow the period between lodgement of disclosure documents to trading on ASX to be reduced to less than three calendar weeks for IPOs going forward.

### Aliria acquisition

A significant portion of the proceeds raised via the IPO were utilised to fund the acquisition of the Aliria portfolio of properties, which settled shortly after completion of the IPO and provided GemLife with significantly expanded scale. The acquisition included both the acquisition of companies that held various properties owned by the Aliria vendor and the right to be appointed by the Aliria vendor as purchaser under option agreements to which the Aliria vendor is a party for further to-be-acquired properties.

The vendor of the Aliria portfolio was Adrian Puljich, GemLife's Co-Founder and CEO. As such, the disclosure document included careful disclosure relating to:

- these arrangements (both the terms of the GemLife acquisition and the terms of the options agreements); and
- the pricing and terms of the acquisition (noting that the headline purchase price was derived from independent valuations which were separately disclosed in the disclosure document).

## GemLife structure

GemLife's IPO involved the offer of stapled securities, which comprised one share in an Australian public company and ten units in 10 Australian unit trusts (ie one unit per unit trust). As far as we are aware, this is the largest number of entities to be listed as part of a stapled group on ASX to date.

A restructure of the various companies and trusts in the GemLife structure was undertaken in conjunction with the IPO. Given the complexity of the GemLife structure, careful planning was required to ensure that the restructure steps and the closing of the IPO were executed in tandem with each other.

Additionally, given the short period GemLife had to pursue the IPO, it engaged a third-party external responsible entity with an Australian Financial Services Licence to act as responsible entity for the listed managed investment schemes forming part of the stapled group. This structure required GemLife and the external responsible entity to collaborate in the design of a bespoke corporate governance framework as well as policies and procedures to govern the interaction between the responsible entity and the corporate side of the stapled group.

### Escrow and sell-down

The \$750 million raised by GemLife via the IPO was all 'primary' issuance and there was no sell-down by existing securityholders. The Puljich and Thakral families also agreed to voluntarily escrow the stapled securities held by them prior to the IPO for release:

- 50% after the release of GemLife's half financial year (ended 30 June 2026) results; and
- 50% after the release of GemLife's full financial year (ended 31 December 2026) results.

Any securities acquired by the founding families and any securities held by other pre-IPO investors were not subject to escrow.

The fact that there was no sell-down escrow by the existing security holders and the nature of the escrow arrangements provided confidence to investors, as shown by the strong demand for the stapled securities offered in the IPO.

## Light & Wonder, Inc.

Light & Wonder, Inc. is a leading global cross-platform games company with a focus on content and digital markets. It is headquartered in Las Vegas in the United States with a significant international presence.

In November, Light & Wonder completed its transition from dual-listed Nasdaq/ASX company to a sole standard listing on the ASX. Upon commencing its sole listing, Light & Wonder had a market capitalisation of approximately \$10.5 billion, making it the largest new standard listing on the ASX since the Telstra IPO in 1997. This transition followed Light & Wonder's strategic decision to consolidate its trading liquidity and capital markets presence onto ASX, aligning with its long-term growth ambitions and shareholder base.

This transition is especially notable because it is unprecedented in the Australian market for a large US company listed on an American exchange to abandon its original listing in favour of a sole ASX listing. The decision highlights Light & Wonder's confidence in the depth and sophistication of the Australian capital market, particularly for gaming companies. It underscores ASX's appeal as a primary listing destination for global companies seeking deep capital markets with an engaged investor community.

### Novel challenges

As expected with a transaction of such scale and novelty, Light & Wonder's transition to a sole ASX listing posed several complex issues that required working through:

#### Managing a unique listing pathway

The ASX Listing Rules and Regulatory Guides do not contemplate a large dual listed entity transitioning to a sole standard listing on the ASX. As a result, the transaction required close and ongoing engagement with ASX to determine the process and timetable, secure an appropriate set of waivers and confirmations, and to ensure Light & Wonder could satisfy ASX listing, governance and disclosure requirements that it had not previously had to contemplate as a foreign listing. This was further complicated by the fact Light & Wonder remains SEC registered, meaning that significant US securities law and governance obligations continue to apply to it.

#### Delisting and listing mechanics

The transition required careful coordination with respect to the Nasdaq delisting process and ASX listing process. This was important to minimise trading disruption to shareholders, as well as disruptions resulting from the removal and inclusion of Light & Wonder from US and Australian indices.

#### Governance updates

As part of the transition to a sole ASX listing, Light & Wonder was required to undertake considerable changes to its governance framework and constitutional documentation to align with ASX standards, whilst still retaining SEC compliance. This included amendments to Light & Wonder's securities trading policy, disclosure policy, governance statements, incentive plans and committee charters.

# Regulatory developments



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## Australian regulators, primarily ASIC, directed substantial attention to Australia's capital markets in 2025.

Most notably, in February 2025, ASIC released a discussion paper (**Discussion Paper**) on the dynamics between Australia's private and public capital markets, through which it invited and received public submissions on discussion questions in relation to:

- developments in global capital markets and their significance for Australia;
- healthy public equity markets;
- private market risks and market efficiency and confidence;
- retail investor participation in private markets; and
- transparency and monitoring of the financial system.

In preparing the Discussion Paper, ASIC commissioned a research report on public equity markets (Report 807 *Evaluating the state of the Australian public equity market: Evidence from data and academic literature*) which took into account the various perspectives put to it through panels,

forums and structured engagements. ASIC received almost 100 submissions in response to the Discussion Paper. Herbert Smith Freehills Kramer provided a summary of, and a link to, our submission in our article 'ASIC Public and Private Markets Discussion Paper - Our submission' dated 6 May 2025. Read more about our submission [here](#).

The Discussion Paper was followed by ASIC's response report in November 2025 in which it outlined its capital markets 'roadmap for the next 12-18 months' (**Roadmap**). Although the Roadmap largely focused on ASIC's next steps regarding private markets, it also acknowledged the fundamental importance of public markets to the Australian economy and the need to innovate in order to remain attractive. In support of that objective, ASIC has begun taking numerous steps to improve the attractiveness of Australia's public equity capital markets.

In this edition of our Regulatory developments article, we have largely focused on providing an outline of the initiatives that ASIC undertook in 2025, along with those it has foreshadowed in the Roadmap, that are relevant to IPOs and other equity capital raisings. We have also briefly touched on ASX's amendments to Guidance Note 1.

## ASIC and ASX's 2025 initiatives and ASIC's Roadmap

### ASIC's 2025 initiatives

#### Two-year trial for faster IPOs

In June 2025, ASIC announced two initiatives as part of a two-year trial designed to shorten the IPO process:

- ASIC will informally review pathfinder disclosure documents on a confidential basis two weeks prior to public lodgement, in order to reduce the risk of exposure period extension; and
- ASIC has provided a no-action position, allowing issuers to accept applications during the exposure period.

GemLife Communities Group was the first issuer to take advantage of ASIC's new fast-track confidential review process. We acted for GemLife Communities Group on their initial public offering and listing on ASX – see page 21 for further details.

The conditions of the trial include that the entity must be eligible for the ASX fast-track listing application process. As we noted in our article '*ASX Guidance Note 1 update*', dated 19 May 2025 (which you can read [here](#)), ASX amended those eligibility requirements with effect from 30 May 2025 and in doing so, restricted the availability of its fast-track process for certain entities (particularly early-stage businesses). As a consequence, the pool of entities that are able to use the ASIC informal pathfinder review process has also been reduced. We have provided an overview of the ASX Guidance Note 1 amendments below.

#### Approval of Cboe Australia's listing rules

In October 2025, ASIC announced that it had approved Cboe Australia's listing market application, which allows Cboe Australia (formerly Chi-X) to list new companies on its platform. Cboe Australia's listing rules were published on its website in November 2025.

ASIC's decision supports its objective of promoting an attractive listing market in Australia by providing Australian investors with access to more investment options, initial public offerings and dual-listed foreign entities.

#### Expanded approved foreign market list

ASIC has expanded the approved foreign market list (notionally inserted into the Corporations Act by ASIC Corporations (*Definition of Approved Foreign Market*) Instrument 2017/669) to include Cboe's US and Canadian exchanges, along with the Canadian Securities Exchange.

This expansion is intended to further integrate Australia into the global financial system by enabling Australian investors to participate in certain transactions in these markets.

### ASX's 2025 initiatives

#### Amendments to Guidance Note 1

As mentioned above, ASX made amendments to Guidance Note 1, which took effect on 30 May 2025. The amendments were intended to provide '*greater transparency to potential early-stage technology, biotechnology and medical technology listing applicants*' and to reflect ASX's current admission and other practices and policies.

One of the most important changes was to introduce limits on the type of entities that are eligible to use the ASX fast-track listing

application process, whereby ASX front-ends its review of listing applications by commencing its review based on a draft listing application and pathfinder disclosure document given to it ahead of the final disclosure document being lodged with ASIC and the final listing application being given to ASX. To be eligible to use the fast-track process, entities must now be expected to have a market capitalisation on listing of at least \$100 million and must not have securities that will be subject to ASX-imposed escrow. As we noted above, this amendment reduced the pool of entities that are eligible for the ASX fast-track process and, as a consequence, ASIC's two-year trial for faster IPOs.

In addition, ASX has provided examples of where an entity may not have a structure and operations appropriate for a listed entity. For example, where the entity's business is in its early-stages and, in ASX's view, has not developed to a point where listing is appropriate, or where the entity is not an investment entity and has a non-operating or minority interest in assets or businesses that form a significant part of its listing proposition.

Guidance Note 1 now also includes a list of positive and negative factors that ASX will take into account for early-stage technology companies in assessing whether the entity has developed to a point where listing is appropriate (including in relation to the background of the entity, how the business has been developed, the entity's revenue and commercialisation opportunities for its product, whether or not it owns its intellectual property and the entity's investment history). ASX will consider similar factors when assessing the suitability of early-stage companies from the biotechnology or medical technology sectors but will also consider whether the applicant has secured key licences or governmental approvals required to operate its business.

### ASIC's Roadmap

In addition to the initiatives ASIC commenced in 2025, the Roadmap has foreshadowed a number of further areas of public markets regulation on which ASIC intends to focus over the next 12-18 months including many that are directly relevant to the attractiveness of IPOs and other public markets equity capital raisings. These are outlined below.

#### Fostering competition and innovation

ASIC intends to continue to take an open and consultative approach to proposals from operators on amending listing frameworks, new trading platforms, and innovations such as tokenised markets. ASIC also supports the development of a deep corporate bond market and expansion of approved foreign markets for listings of companies in Australia.

ASIC received feedback that some of its regulatory guides and instruments may undermine competition as they refer to specific entities that provide financial market infrastructure and may be read as favouring those entities. By the end of 2026, ASIC intends to update its regulatory guides and legislative instruments to be provider neutral.

These measures are all directed at fostering greater competition within Australia's financial markets and creating optionality for Australian investors.

#### Considering lowering thresholds for dual listings

The current financial thresholds for foreign exempt listings on the ASX are higher than those for standard ASX listings.

ASX is considering lowering the market capitalisation threshold from \$2 billion to \$500 million, while removing other financial thresholds, to make the ASX more attractive as a secondary listing venue for foreign entities. ASIC supports ASX and other market operators consulting on whether adjustments to foreign exempt listing requirements would be beneficial, considering market developments.

#### **Considering lowering the free float requirement**

ASIC supports market operators consulting on whether adjustments to free float requirements are warranted, considering market developments.

Australia's market operators have a free float requirement of between 20% and 25%. In comparison, the minimum free float requirement in the US and the UK markets is 10%, with the UK reducing its minimum free float requirement from 25% to 10% in 2021 to encourage a broader range of listings and remain competitive with markets such as the US.

#### **Considering the one-size-fits-all approach for listed entities**

ASIC is ready to assist the government in reviewing and shaping reforms relating to re-evaluating the current one-size-fits-all approach for disclosure and governance which currently applies to listed entities regardless of their size, where such reform considerations arise. ASIC has acknowledged that there is merit in exploring tailored and potentially lighter disclosure and governance frameworks for small and medium-sized enterprises, or a transitional period or pathway to full requirements for certain innovative start-up sectors (which is similar to the approach that was taken in the US when the *Jumpstart Our Business Startups Act* was legislated in 2012).

ASIC's view is that this matter requires further reflection and engagement with industry to identify how the necessary structural changes can be made.

#### **Considering use of forecasts in prospectuses**

ASIC acknowledged that it received multiple requests for further flexibility around when forecasts are required, including for reasons related to cost, time and reputational and liability risks, as well as issues where dual listings are contemplated but the second jurisdiction has different requirements to Australia's. ASIC also noted that while the expectation that forecasts will be disclosed where reasonable grounds exist differentiates Australia from global practices, this is a positive feature of the Australian regulatory landscape and there have been recent policy changes in other major jurisdictions in this context, including in the UK, where the Financial Conduct Authority recently published policy statement 25/9, changing liability settings to encourage the inclusion of forward-looking information in prospectuses.

ASIC will continue to engage with industry and will clarify its guidance as to when a forecast is required and confirm flexibility in their presentation (including duration and use of meaningful ranges).

#### **Reviewing IPO publicity restrictions**

Prospectus advertising restrictions are different from, and more restrictive than, the product disclosure statement advertising regime. ASIC has acknowledged that this discrepancy is outdated and inappropriate considering how information is shared today.

ASIC is reviewing ASIC Regulatory Guide 254 *'Offering securities under a disclosure document'* and is considering a class instrument to address these issues. ASIC expects to provide an update by June 2026.

#### **Reviewing prospectus guidelines for clear, concise and effective disclosure**

Prospectuses have lengthened significantly in the past two decades, with prospectus lengths doubling from an average of 109 pages in 2005 to 266 pages in 2024. Mining-related prospectuses averaged 353 pages in 2024.

Against this backdrop, ASIC will review Regulatory Guide 228 *'Prospectuses: Effective disclosure for retail investors'* in the 2026/27 financial year to assess its effectiveness, consider global developments and determine whether mining-related prospectuses could be more concise. ASIC has also encouraged issuers and advisers to actively manage the length and complexity of their prospectuses.

#### **Reviewing sell-side research guidelines**

ASIC received feedback that that ASIC Regulatory Guide 264 *'Sell-side research'* is too prescriptive when compared with international regimes.

ASIC is reviewing ASIC Regulatory Guide 264 with a view to simplifying the guidance while preserving research independence and conflict management. As part of its review, ASIC is considering international comparators and engaging with stakeholders and overseas regulators.

#### **Insider trading prohibition and trading plans**

ASIC acknowledged merit in and support for the introduction of non-discretionary trading plans, known as Rule 10b5-1 plans in the US, which essentially allow insiders to establish pre-set trading plans that facilitate orderly sell-downs of shares even when they may otherwise be deemed to have 'inside information'. Such a change would require law reform and ASIC is willing to support industry and the government in considering reform of Australia's insider trading prohibition in order to support public listings.

#### **Greenshoe options – considering alterations to 'no action' position**

A greenshoe option allows underwriters to stabilise the stock price and smooth out price volatility following an IPO. ASIC received feedback suggesting that greenshoe options are one of the most successful mechanisms used to protect the aftermarket in jurisdictions such as the US, UK and Hong Kong.

ASIC sees merit in considering altering its 'no action' position on greenshoe options to further facilitate their use in Australia. However, ASIC also stated that this is not one of its near-term priorities, as greenshoes tend to only be used in the largest IPOs, and there have been many successful large Australian IPOs that have been undertaken without using greenshoe options.

#### **Supporting a simpler ASX corporate governance framework**

ASIC acknowledged feedback that the ASX Corporate Governance Council's Principles and Recommendations have become increasingly complex over time. Following recommendations by an independent review panel, ASX announced in October 2025 that the ASX Corporate Governance Council will be abolished and ASX will assume responsibility for developing, approving and issuing the principles, supported by an advisory group.

The independent review panel recommended simplifying future editions by making them shorter, less prescriptive and ensuring they do not duplicate existing laws. ASIC has encouraged ASX and its advisory group to prioritise refreshing the principles, as they were last updated in 2019, and ensure they remain clear and do not discourage companies from listing or remaining listed.

### Considering simpler director and company liability settings

Concerns have been raised around the liability regimes for listed companies and directors, including overlapping regimes, inconsistent penalties and defences, and ASIC's enforcement approach (particularly relating to 'stepping stone liability' where directors are held accountable for a company's breach of its statutory obligations). Stakeholders suggested that these issues, along with risks of ASIC enforcement and shareholder class actions, deter private companies from listing and discourage public companies from remaining listed.

While ASIC is open to engaging with government on reforms to simplify disclosure and liability settings (and has already started doing so in relation to the Financial Accountability Regime, in collaboration with APRA), ASIC considers it appropriate to retain a range of regulatory tools where directors fail to meet their obligations and notes that it uses these powers cautiously.

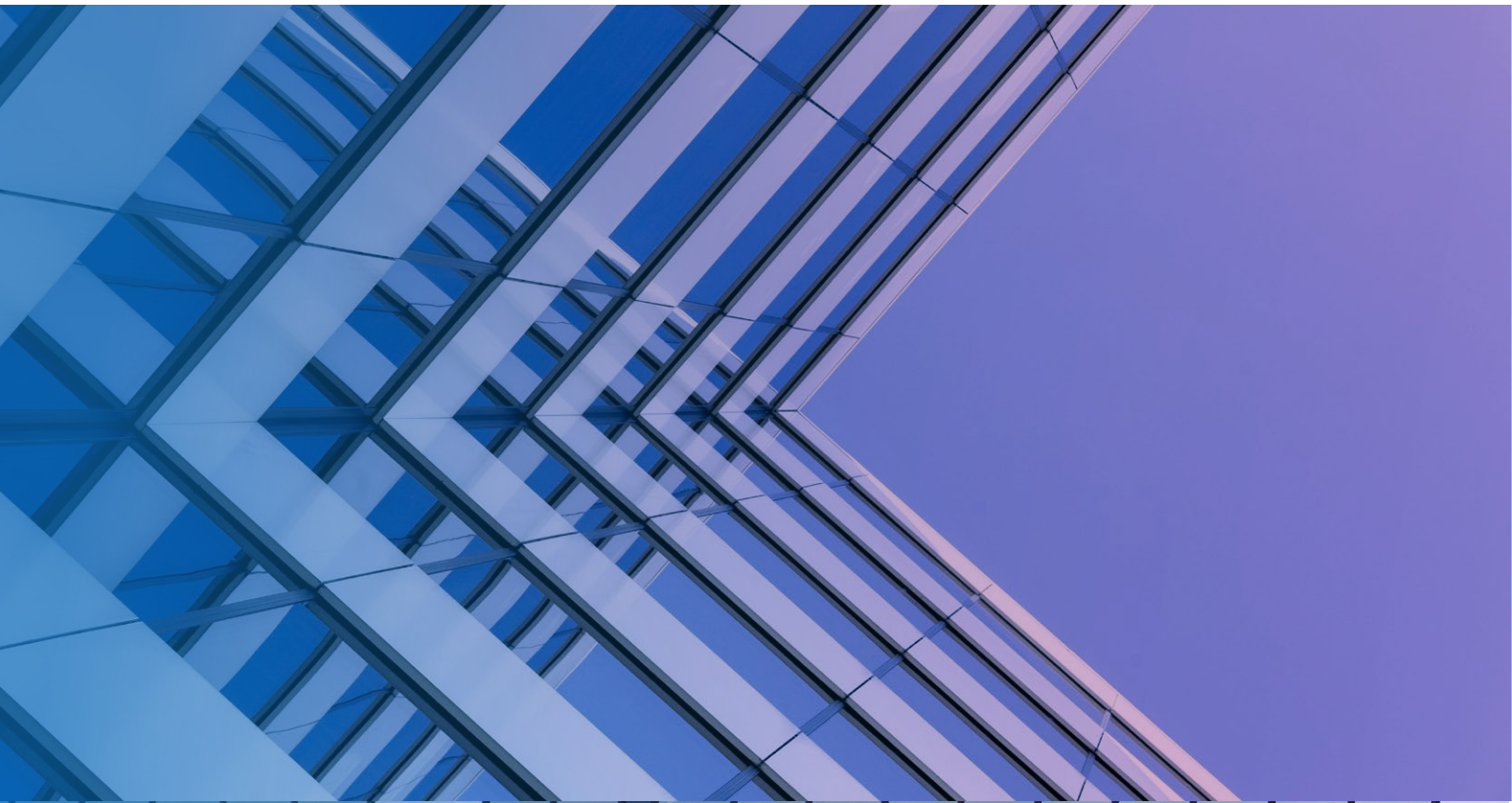
### Steps ASIC is unlikely to pursue

ASIC received and considered submissions in relation to a number of initiatives that are either outside its remit (as they require law reform) or that it does not regard as near-term priorities. These relate to the two strikes rule, dual class shares, alignment of the PDS and prospectus disclosure regimes for listed trusts, special purpose acquisition companies, increasing the \$30,000 limit on share purchase plans, accelerated rights issues and placements (and retail involvement in institutional bookbuilds and placements), and relief for underwriters from the substantial holding notice requirements for voluntary escrow.

### What's to come?

While ASIC has made considerable progress in identifying and assessing the measures that it expects will strengthen Australia's public markets, many of its more interesting proposals are in their infancy and remain subject to further engagement and consultation. There is also a natural limit to what ASIC is able to achieve given that many of the initiatives that we expect are likely to have the most significant impact (such as considering simpler company and director liability settings and a simpler corporate governance framework) will either require legislative amendment or action from market operators, particularly ASX. Where possible, we are hopeful that ASIC will use its influence to encourage lawmakers, market operators and other regulators to follow its lead.

It remains to be seen whether and to what extent the regulatory reforms proposed in the Roadmap will translate into more attractive public markets for Australia. Nevertheless, we regard the Roadmap (and the industry engagement process that preceded it) as a step in the right direction. As ASIC Chair Joe Longo notes in the foreword of the Roadmap, *'the roadmap set out in this document is not the finish line – it's the launchpad. It is our chance to act boldly and seize the opportunities before us'*. We will continue to monitor developments in this space and we look forward to further positive initiatives throughout 2026.



# 2025: Resources sector activity

Resources companies<sup>1</sup> remained a cornerstone of Australia's equity capital markets in 2025, with activity levels demonstrating continued investor support for commodities-focused issuers, in line with the strong performance of minerals prices generally in 2025 (including gold, silver, tin, copper, platinum and cobalt) and government measures globally to promote domestic production of critical minerals and ensure sovereign supplies. The sector again dominated both the IPO and secondary raisings markets, underlining the ASX's position as a leading global market for resources capital.



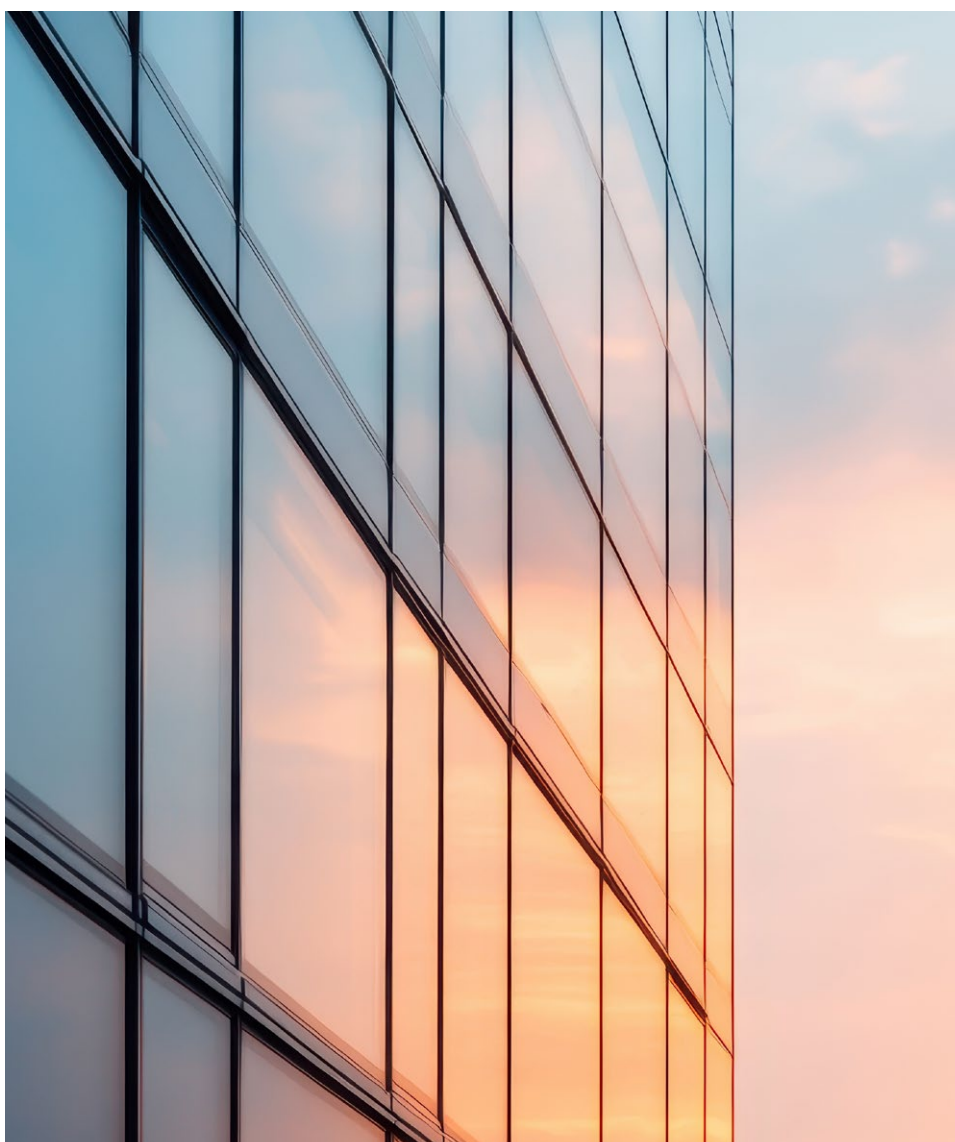
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**Note on methodology:** This article uses the same methodology as that used for IPOs (see page 10) and Secondary offers (see page 11).

1. For the purposes of this article the resources sector includes metal and mining companies and energy companies.

## IPOs

Australian IPO activity in 2025 has again demonstrated the central role of the resources sector in domestic equity capital markets. Of the 40 IPOs that successfully completed during the year, 23 (57.5%) were resources companies, reflecting continued investor appetite for commodities exposure.

Whilst accounting for the majority by number, these offerings collectively raised 22.4% of the total IPO capital raised which reflects the fact that most of the resources IPOs were from exploration companies, which typically have lower early-stage capital requirements. An exception was BMC Minerals Ltd, a mineral exploration company that is developing its key project in Canada, which successfully raised \$100 million. Producers were fewer in number but more significant in value. Greatland Resources Ltd raised approximately \$490 million, making it the largest resources IPO of 2025.

Foreign issuers were a notable feature of the 2025 IPO market comprising six of the 23 resources IPOs — four from Canada (including BMC Minerals Ltd (\$100 million), Robex Resources Inc (\$120 million) and Orezone Gold Corporation (\$75 million)), one from the United States, and one from the United Kingdom. This indicates the ASX's ongoing appeal for resource-focused companies seeking both capital and enhanced investor visibility.

Commodity exposure within the IPO cohort mirrored broader market dynamics. Sixteen IPOs involved companies with a gold focus (often alongside other minerals), benefitting from gold's appeal as a safe haven asset and resultant record pricing. In addition, nine featured copper (again, frequently in combination with other commodities), underscoring the global supply-demand dynamics for copper and its importance in multiple applications.

## Secondary raisings

Australian secondary raisings over \$10 million in 2025 were dominated by resources issuers. Approximately 66% of the raisings by number were undertaken by resources companies, totalling approximately \$10.5 billion which accounted for 43.8% of all secondary capital raised for the year.

Transaction sizes spanned a broad range:

- 44% raised \$10–25 million;
- 27% raised \$25–50 million;
- 19% raised \$50–100 million;
- 7% raised \$100–300 million; and
- 3% exceeded \$300 million.

The largest raisings included those by Lynas Rare Earths Ltd, NexGen Energy Limited, Arafura Rare Earths Ltd and Liontown Resources Ltd, reflecting continued strong market support for critical minerals projects.

Structurally, placements were most popular, reflecting that such structure allows for speed, flexibility and execution certainty. Of the secondary raisings by resources companies over \$10 million, 72% were stand-alone placements, 23% were placements combined with an SPP, and only 5% were entitlement offers.

Consistent with prior years, the principal use of proceeds was liquidity and general working capital, including exploration and development of existing projects. A small subset supported M&A activity, including Sayona Mining Limited's raising that was undertaken in conjunction with its merger with Piedmont Lithium Inc..

Commodity themes in secondary raisings over \$10 million remained concentrated in precious and energy transition metals. Approximately 55% involved companies with a gold focus, 30% with copper, 20% with lithium, and 19% with silver (each being often in combination with other commodities). This aligns with the relative price performance of those commodities over the period and investors' ongoing preference for gold's defensive characteristics.

## Reflections

Last year we predicted that we would see continued IPO activity in the resources sector across a broad range of commodities, predominantly by exploration companies, as well as the continued support for secondary raisings by gold focused companies and critical and strategic minerals companies.

This pattern has eventuated and reinforces the Australian market's appetite for IPOs by exploration companies and the willingness to provide further capital to both exploration and operational resources companies. It also reflects the general performance of resources related indices such as the S&P/ASX 300 Metals & Mining Index which saw a total return of 43.88% over 2025 and the S&P All Ordinaries Gold Index which saw a total return of 126.95% over 2025.

## What next?

Whilst the start of 2026 has seen some commodity price volatility, we still expect continued activity in equity capital markets for resources companies given the capital intensive nature of the resources industry.

Although the recent conflict in the Middle East has seen gold and silver prices fall from their recent highs, prices for gold and silver still remain strong by historic standards and the geopolitical factors that have driven the price increases observed over the last 2 years look set to continue. We therefore expect issuers with gold and silver focused projects, both explorers and developers, are likely to remain active capital raisers. We also expect copper projects to continue to attract capital while prices remain strong and the rebound in lithium prices will support raisings by companies with lithium projects. Cost and inflationary pressures may also drive mining companies to seek to strengthen their balance sheet if the opportunity arises.

More broadly, we expect that supply deficits in strategic and critical minerals, the focus on defence and energy and supply-chain security and governments' increased involvement in the demand for and production of those commodities will result in the development of more strategic and critical minerals projects, with issuers undertaking raisings to fund the equity component of the funding for those projects.

# Key US securities developments



## A year of change, to be continued

As anticipated in the ECM review last year, 2025 reflected significantly different priorities in securities regulation and enforcement by the Securities and Exchange Commission (SEC), compared to the prior Biden administration and SEC Chair Gensler. Highlights of the changed direction under Chair Atkins include:

- renewed attention to foreign private issuer (FPI) accommodations under US securities laws;
- a focus on facilitating capital formation and reducing unnecessary burdens on public companies;
- deemphasising environmental, social, and governance (ESG) initiatives; and
- refocusing enforcement efforts on fraud-based offenses that harm investors.

## Renewed focus on foreign private issuers

For the first time in many years, the SEC and Congress are paying attention to the many provisions under US securities laws that facilitate FPI access to the US capital markets. In December 2025, new legislation expanded the insider trading reporting requirements of Section 16 of the *US Securities Exchange Act of 1934 (Exchange Act)* to FPIs. This is expected to be a significant change for officers and directors of FPIs, who were previously exempt from these requirements.

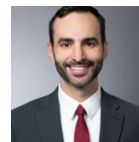
Also, in June 2025, the SEC issued a significant Concept Release to request comments on potential changes to the FPI definition. Some of the possible changes could have significant effects on FPIs seeking to access the US capital markets and existing FPIs with US stock exchange listings. While final rule changes, if any, would require lengthy notice and comment periods, and possible court challenges, this is likely to remain an important area of focus for market participants and the SEC.



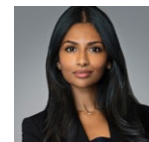
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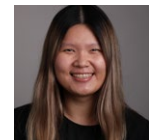
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### Emphasis on capital formation and reducing regulatory burdens

The current SEC Commissioners have frequently emphasised the goal of making it easier and less costly for companies to raise capital in the US and to become and remain US reporting public companies. This is illustrated by the recent January 2026 initiative to reform Regulation S-K, which is the SEC's core source of nonfinancial disclosure requirements. Although primarily addressed at US domestic companies, these potential changes may also impact requirements for FPIs and/or market practice for international offerings

Similarly, the SEC took several steps in 2025 to reduce perceived burdens of ESG initiatives. These included new guidance and staff priorities that have the effect of increasing US companies' ability to exclude 'Rule 14a-8' shareholder proposals from their annual meeting proxy statements. In particular, the SEC Division of Corporation Finance issued Staff Legal Bulletin 14M in February 2025, rescinding prior Staff Legal Bulletin 14L (2021) and reinstating portions of Staff Legal Bulletins that were previously rescinded by that Bulletin. This updated guidance indicates that the SEC Staff will be more receptive to companies seeking to exclude shareholder proposals that relate to the 'ordinary business' of the company, or that relate to matters that do not have sufficient 'economic relevance' to the company. The Division additionally announced in November 2025, following the US government shutdown, that it would not respond to routine requests for 'no-action' relief from companies seeking to exclude shareholder proposals from proxy statements. As a result, the SEC Staff will not generally continue its practice of publicly disagreeing with companies' decisions to exclude such shareholder proposals.

Companies that qualify as FPIs are exempt from these provisions of the US proxy rules, but the SEC's changed priorities are not limited to public companies that are subject to the full requirements applicable to US domestic issuers. For example, the SEC's changed approach to ESG matters is illustrated by its February 2025 interpretations under Regulation 13D-G, which has led to changes in investment stewardship by large institutional investors.

### Political matters

Again as noted in the last ECM review, recent US political shifts may continue to influence the SEC's agenda. The SEC is designed to be bipartisan, with five Commissioners having equal votes. Historically, most decisions of the SEC Commissioners have been unanimous. However, the current SEC has a reduced number of three Commissioners, each of whom is a Republican nominee. While securities regulation priorities do not always align with US political divisions as other issues do, we expect the SEC policy changes of 2025 to continue. Similarly, US government funding shutdowns like those in late 2025 and early 2026 may be recurring events that call for adaptiveness when conducting US securities offerings and complying with US regulations.

### Expansion of Section 16 reporting obligations to include FPIs

On December 18, 2025, President Donald Trump signed the 2026 *National Defence Authorization Act*, including Section 8103: the *Holding Foreign Insiders Accountable Act (HFIA Act)*. The HFIA Act subjects officers and directors of FPIs to Section 16 reporting obligations, but not its short-swing profit recapture provisions.

Section 16 of the Exchange Act requires officers, directors and 10% owners of registered issuers to file ownership reports with the SEC and subjects them to recapture on matched purchases and sales of the issuer's equity securities within six months. Prior to the HFIA Act, FPIs were exempted from these requirements.

The HFIA Act also added new subsection (5) to Section 16(a) allowing the SEC to exempt persons, securities, or transactions from Section 16 requirements if they determine that the laws of a foreign jurisdiction apply 'substantially similar requirements.' On March 5, 2026, the SEC exercised this authority to exempt directors and officers of FPIs subject to qualifying regulations and incorporated in qualifying jurisdictions, including Canada, the European Economic Area and the UK. The SEC staff has also stated that relief for additional jurisdictions is being considered.

Pursuant to the HFIA Act, FPI officers and directors will now be required to file (i) initial statements of ownership on Form 3, generally within ten days of becoming an officer or director and (ii) statements of changes of beneficial ownership on Form 4, generally within two business days of acquisition or disposition of FPI equity securities (including equity-based compensation). These filings will inevitably lead to additional scrutiny of trading activity, because Section 16 also includes a concept of 'directors by deputization,' whereby a shareholder whose employee serves as a director of an issuer may itself be deemed a director of the issuer for purposes of the statute, this concept will presumably extend to shareholder-designated FPI directors as well.

US domestic issuers whose officers and directors fail to comply with the Section 16(a) requirements must report the filing delinquencies in their annual Form 10-K. However, Form 20-F or Form 40-F reports by FPIs do not include corresponding requirements. Moreover, the SEC could bring civil enforcement actions against officers and directors who fail to timely file their Section 16(a) reports, although such actions are usually directed against serial offenders.

On the other hand, the exclusion of FPIs from the reach of the short-swing recapture provisions of Section 16(b) has favourable governance consequences for FPIs, as FPIs need not observe the approval requirements that US domestic issuer board and compensation committees must carefully follow.

The amendments to Section 16(a) took effect on March 18, 2026 and the SEC issued final regulations on February 27, 2026 to implement the HFIA Act. The SEC's Division of Corporation Finance has issued frequently asked questions and responses regarding the new HFIA Act requirements and a no-action letter, Tower Semiconductor Ltd. (March 13, 2026), providing limited accommodation for the initial filing deadline for parties materially affected by the Middle East conflict. FPIs should ensure that their

internal reporting policies and procedures are updated to comply with the new Section 16(a) reporting obligations and that each director and officer is ready to make the required filings with the SEC.

### Our take

The HFIA Act should be viewed as the first step in what will likely be a pattern of additional SEC oversight of FPIs, particularly those who register their securities only in the US and list them on a US stock exchange, or that are organized in jurisdictions where home country disclosure and reporting standards may be less robust than US requirements. Moving forward, FPIs should (i) consider the new Section 16(a) requirements together with any home country requirements and identify areas of additional obligation or inconsistencies, (ii) educate their officers and directors with respect to the Section 16(a) reporting requirements and (iii) adopt policies and procedures that will promote timely filings. FPIs should also keep in view any additional SEC rulemaking and staff guidance to accompany the Section 16 legislative changes.

## SEC 'Concept Release' on the definition of FPI

On June 4, 2025, the SEC issued a 'Concept Release' to solicit comments on the definition of FPI under the *US Securities Act of 1933 (Securities Act)* and the Exchange Act. This is the first time the SEC has visited FPI regulatory framework in a significant way since September 2008, signalling potentially important modifications to the application of US securities laws to most non-US companies conducting US public securities offerings and reporting to the US public markets by.

### The changing FPI landscape

Generally, foreign issuers that qualify as FPIs have benefitted from significant accommodations providing full or partial relief from the registration, reporting and governance requirements that apply to US domestic issuers. These accommodations have reflected an understanding that, while legal and regulatory requirements differ across non-US home country jurisdictions, most FPIs registering their securities in the United States are subject to meaningful disclosure and governance requirements in their home country jurisdictions. However, from 2003 to 2023, the universe of FPIs with Exchange Act reporting obligations has undergone significant changes, prompting the SEC to question whether the current FPI population represents the intended beneficiaries of historical accommodations.

Significantly, there has been a large shift since 2003 in the home country jurisdictions of FPIs and corresponding home country regulations. Some jurisdictions have, in fact, begun to rely on the United States' FPI regulatory framework as the primary set of regulations governing their issuers.

Additionally, as of 2023, 55% of FPIs have their equity securities almost exclusively traded in the US capital markets (**US Exclusive FPIs**), resulting in a lower likelihood that substantial home country regulatory and disclosure requirements will apply.

The SEC's FPI population review found an increased divergence between the FPI's jurisdiction of organisation (most commonly, the Cayman Islands) and the jurisdiction of its headquarters (most commonly, mainland China). Moreover, the SEC noted that US Exclusive FPIs tend to have different home country jurisdictions than other Exchange Act reporting FPIs, with a higher proportion incorporated in the Cayman Islands and headquartered in China.

### Requested feedback

In its Concept Release, the SEC has requested feedback on the following potential revisions to the FPI definition and framework (including whether a combination may be appropriate), as well as general comments on the FPI definition and accommodations.

1. **Updating FPI eligibility criteria.** The SEC asks whether eligibility criteria should be amended by changing the existing two prong test and either reducing the 50% threshold of US beneficial holders in the shareholder test or modifying the list of criteria under the business contacts test. They also ask whether the current FPI definition appropriately identifies foreign issuers that are subject to home country regulation that merits accommodation under US federal securities law.
2. **Introducing a foreign trading volume requirement.** The SEC requests comment on adding a trading volume requirement to the FPI definition, noting that issuers with a meaningful amount of trading of their securities on a non-US market may be more likely to be subject to meaningful home country regulation and oversight.
3. **Introducing a major foreign exchange listing requirement.** The Concept Release seeks comment as to whether to introduce a requirement that an FPI be listed on a 'major foreign exchange' as a way of ensuring the FPI is subject to meaningful home country regulation. It seeks comment on several factors that would go into whether a foreign exchange would be considered 'major' and notes certain factors that may be burdensome to implement.
4. **Assessment of foreign regulation.** The SEC asks if each FPI should be incorporated in a jurisdiction that the SEC determines has a sufficiently robust regulatory and oversight framework with a high level of cooperation with the SEC.
5. **Mutual recognition system.** The SEC seeks comments on whether and how to establish a mutual recognition system regarding Securities Act registration and Exchange Act reporting, similar to the MJDS system for Canadian issuers.
6. **International cooperation agreement requirement.** The SEC also seeks comment on a potential requirement for FPIs to certify that they are organised or headquartered in a member jurisdiction of the International Organization of Securities Commissions (**IOSCO**) that is a party to information sharing agreements.

## Responses thus far

Response letters so far have largely been submitted to the SEC by law firms, FPIs and other industry groups. The letters have offered mixed responses, with some saying (i) they support the SEC's policy goals and understand the intentions behind the proposed changes, but they see potential negative consequences of the approaches listed above, (ii) a change in the FPI universe may not in itself be a good enough reason for altering the FPI regulatory framework and more data-driven arguments should be provided, or (iii) the current definition works effectively and that changing it could lead to unforeseen negative consequences.

On September 18, 2025, following the Concept Release, the SEC's Investor Advisory Committee held roundtable discussions on the evolving landscape of FPIs in US capital markets and potential regulatory responses. Some commentators acknowledged risks identified in the Concept Release related to China-based and Cayman-incorporated issuers, particularly in relation to risks arising from variable interest entity structures. Some suggested anchoring FPI eligibility to the quality home country regulation and the degree of enforcement cooperation with the SEC, though acknowledging that this approach would be burdensome for the SEC. Commentators also argued, as did Herbert Smith Freehills Kramer in its own comment letter, that targeted changes to current requirements would address disclosure gaps more effectively, compared to broad changes to the FPI definition.

### Our take

Enactment of any or a combination of the above revisions could have a significant impact on foreign private issuers seeking to access the US capital markets, especially those seeking to register their securities in the US and list them only on a US stock exchange, or where home country disclosure and reporting standards may not be as robust as US requirements. The SEC and several Commissioners have indicated that they may take a practical and reasoned approach to any revisions, which is an approach that we support. It is also our view that targeted revision of the current FPI disclosure regime is the best way to address any disclosure gaps, rather than broadly changing the FPI definition.

Among other factors that we believe are worthy of consideration by the SEC are (i) the competitive impact of any changes to the FPI definition on registrations and listings in the US, (ii) whether FPIs registered in the US do so because they operate in some of the most innovative sectors of the global economy, (iii) whether there have been regulatory or market failures resulting from differences in FPI and US domestic issuer disclosure requirements that justify rolling back FPI accommodations, (iv) the extent to which US Exclusive FPIs have nevertheless voluntarily implemented US style disclosure practices in the absence of home country requirements for market or other reasons and (v) the extent to which there is evidence that US domestic issuers are disadvantaged by the current accommodations provided to FPIs.

## ESG: A shifting landscape



### The SEC's shift away from the ESG agenda

Under the second Trump administration, it is clear that the SEC has pulled away from environmental, social and governance priorities, taking steps to distance itself from initiatives and rules promulgated under the prior administration.

On March 27, 2025, the SEC voted to end its defence of the final rules on climate-related disclosures in the US Court of Appeals for the Eighth Circuit, where the litigation was consolidated. The SEC's final rules would have required US-listed companies to provide extensive climate-related disclosures. SEC Acting Chair Mark Uyeda stated that the goal of such action was to 'cease the Commission's involvement in the defence of the costly and unnecessarily intrusive climate change disclosure rules.' In July 2025, the SEC filed a status report, urging the court to render a decision on the case. The Eighth Circuit subsequently rejected such request in September 2025, stating that the case will be held in abeyance until such time as the SEC reconsiders the challenged rules by notice-and-comment rulemaking or renews its defence of the rules. The Eighth Circuit explained that it is the agency's responsibility to determine whether its final rules will be rescinded, repealed, modified, or defended in litigation.

Separately, in June 2025, the SEC withdrew several proposed rulemakings introduced under the prior administration. Among these was the SEC's 2022 proposal to enhance ESG disclosure by investment advisers and investment companies. That proposal would have required registered investment advisers, certain exempt advisers, registered investment companies and business development companies to provide details of the role of ESG factors in their investment decisions.

Over the past year, the SEC has introduced guidance and increased its scrutiny on shareholder engagement and activism, particularly in relation to ESG matters. In February 2025, the Staff of the SEC Division of Corporation Finance published updated Compliance and Disclosure Interpretations (**C&DIs**) (**recently renamed 'Corporation Finance Interpretations' or CFIs**) on Regulation 13D-G beneficial ownership reporting that are likely to significantly impact institutional investor engagement on ESG matters. Under the prior text of C&DI 103.11, the SEC provided that much of what constitutes ordinary course institutional investor engagement with portfolio companies – including engagement on executive compensation, corporate governance matters (such as board declassification), or social or environmental policies – would not, on its own, constitute an attempt to change or influence control of such companies, which would prevent reporting beneficial ownership on the short-form Schedule 13G. New C&DI 103.12, in contrast, emphasises that such engagements may constitute an attempt to influence or control issuers if they involve attempts to exert pressure on management to take specific actions, including when

investors recommend that issuers undertake specific actions on a social, environmental, or political policy and, as a means of pressure, explicitly or implicitly conditions support for the issuer's director nominees at the next director election on the issuer's adoption of the recommendations. Under such circumstances, reporting on the long-form Schedule 13D may be required. This guidance highlights the SEC's increasing scrutiny of institutional investors' corporate governance stewardship activities.

Later, on October 9, 2025, in remarks at the University of Delaware's Weinberg Center for Corporate Governance, SEC Chair Atkins discussed his priority to make being a public company attractive for more firms, arguing that one of the ways to achieve this is to de-politicise shareholder meetings and return their focus to voting on director elections and significant corporate matters. *'Perhaps nothing has epitomised the politicisation of shareholder meetings more than shareholder proposals focused on environmental and social issues. These proposals, which reflect views from both sides of the political aisle, generally call for actions that are not binding on the company—referred to as 'precatory proposals'—and frequently involve issues not material to the company's business,'* Chair Atkins said. To that end, he noted that 'Shareholder Proposal Modernization' is on the SEC's policy agenda and has asked the agency to evaluate whether the SEC's original rationale for adopting Rule 14a-8 in 1942 still applies today. While Rule 14a-8 provides shareholders of companies that are not FPIs a mechanism to submit proposals to be included in US companies' annual meeting proxy statements, the rule can only be used for proposals that shareholders can properly raise under state law. Noting that state law governs whether a proposal is a 'proper subject', Chair Atkins stated the SEC must defer to state law experts as to what is a proper subject for action. Citing a now recently released law review article that argues precatory proposals are not a proper subject under Delaware law, and other authorities, Chair Atkins asserted that if there is no fundamental right under Delaware law for such precatory proposals and such a right is not granted in a company's governing documents, then such a precatory shareholder proposal submitted to a Delaware company is excludable under Rule 14a-8(i)(1).



### Continued diverging approaches at state level

At the state level, ESG policies continue to vary significantly. Some states have continued advocating for ESG and climate-conscious measures, while others have actively discouraged ESG policies.

In California, on November 18, 2025, the US Court of Appeals for the Ninth Circuit granted a temporary injunction blocking enforcement of the state's *Climate-Related Financial Risk Act (SB 261)*, which requires US companies doing business in California with more than US\$500 million in revenue to publicly disclose their climate-related financial risks in a biennial report. The injunction was granted in the context of a legal challenge brought by a coalition of business groups against both SB 261 and the *Climate Corporate Data Accountability Act (SB 253)*, which requires entities with over US\$1 billion in revenue doing business in California to disclose their greenhouse gas emissions. The plaintiffs raised



several constitutional and statutory claims, including that SB 261's disclosure obligations violate First Amendment protections. The Ninth Circuit granted the injunction only in relation to SB 261. SB 253 remains in effect.

Separately, Alabama, Alaska, Idaho, Kentucky, North Dakota, Oklahoma, Texas, Utah and West Virginia passed legislation prohibiting the relevant state from entering into contracts with a company unless the company certifies that it does not boycott fossil fuels or refuse business from companies that fail to meet certain environmental standards. For example, Alabama Senate Bill 261 prohibits governmental entities from contracting with a company that boycotts businesses failing to meet ESG standards, and requires companies seeking to contract with the state to submit written certification that they do not boycott fossil fuels. Additionally, at least 17 states have enacted legislation requiring state pension investments and proxy votes to avoid ESG factors and instead rely only on pecuniary factors. For example, Idaho Senate Bill 1405 prohibits public entities engaged in investment activities from considering ESG factors in a way that could violate the prudent investor rule.

In contrast, other states and related entities including in California, Illinois, Maine, Minnesota, New York and Oregon have enacted legislation or mandates requiring pension and retirement funds to divest from fossil fuel companies. For example, the New York State Common Retirement Fund adopted measures restricting investments in oil and gas companies and reducing climate-related investment risks. Massachusetts, New Jersey, Vermont and Washington have legislation pending that seeks to adopt similar fossil fuel divestment measures.

### Our take

We expect anti-ESG efforts to continue under the current administration and accordingly proposals may make ESG practices more difficult to advance. In particular, we anticipate SEC rulemaking initiatives to address shareholder proposals, which could significantly reshape shareholder engagement and activism on these issues. The number of environmental and social proposals that will be submitted and brought to a vote in the US is likely to further decrease this year. Investors who historically reported their beneficial ownership on Schedule 13G will need to carefully consider the ability to continue company-specific investment stewardship and engagement and whether their historical engagement practices may now be viewed as having a purpose or effect of influencing control of the company, thereby triggering a loss of eligibility to report beneficial ownership on the short form Schedule 13G. At the state level, we expect states to continue taking varied approaches, with public and private parties challenging ESG and climate-conscious policies. For example, the US Department of Justice, 22 state attorneys general and private companies have filed lawsuits challenging New York's Climate Change Superfund Act, which seeks to impose liabilities on companies alleged to be large contributors to carbon emissions.

## US securities enforcement: a year of reset and new priorities

As predicted in the last ECM review, the United States' regulatory landscape in 2025 reflected distinctly different priorities than those pursued by the Biden administration. The new SEC Chairman, Paul Atkins, was sworn in on April 21, 2025. The SEC also has a new Enforcement Director, Judge Margaret Ryan.

Chair Atkins has announced a core three-part mission for the SEC: (i) enforcement activity will focus on traditional 'bread and butter' types of cases, especially fraud-based offenses; (ii) capital formation; and (iii) maintaining 'fair, orderly and efficient markets' by 'balancing costs and benefits' and reducing 'needless friction.'



### Declining enforcement activity

The SEC engaged in significantly less enforcement activity in the fiscal year ended September 30, 2025, initiating only 313 separate enforcement actions: a 27% reduction from 431 cases in FY 2024 and a 38% decline from 501 cases in FY 2023. There was also a reduction in enforcement activities against public companies, down 30% to 56 actions, 52 of which were initiated by the previous administration between October 2024 and January 2025.

There were several reasons for the decline in enforcement, including: (i) reductions in SEC staff headcount and broad restructuring of the organisation; (ii) tighter control of investigations by the Commission and reduced staff discretion (for example, in March 2025, the SEC revoked a 2009 delegation of power that allowed senior staff of the Division of Enforcement to issue formal orders of investigation, a prerequisite to issuing subpoenas for documents and testimony); and (iii) fewer industry-wide enforcement sweeps, particularly those involving technical violations (for example the off-channel communications sweeps that were a feature of Chair Gensler's administration).

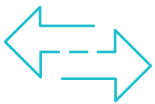
Significant cases may also impact the SEC's enforcement program. The United States Supreme Court will hear *Sripetch v. Securities and Exchange Commission*, No. 25-466, 2026 WL 73091 (US Jan. 9, 2026), to resolve a circuit court split over whether the SEC needs to show that investors suffered pecuniary loss or harm to obtain disgorgement in a civil enforcement action.



### A focus on traditional areas of enforcement

Chair Atkins has indicated that he wants to emphasize classic fraud cases and cases bolstering investor confidence. The SEC's enforcement case load in FY 2025 demonstrates a focus on insider trading involving corporate insiders and market professionals, fraud in securities offerings (27% of all cases in FY 2025), Ponzi schemes, accounting fraud, and advisor fiduciary breaches. For example:

- In March 2025, the SEC charged German national Eamma Safi and Singaporean national Zhi Ge with Rule 10b-5 violations for their alleged involvement in an international insider trading ring that generated more than \$17.5 million in illegal profits.
- In August 2025, the SEC charged Ryan Wear and Jordan Chirico for their participation in two related Ponzi schemes that raised over \$250 million from more than 250 investors, including veterans, over a seven-year period. The SEC also alleges that Chirico, a portfolio manager to a private fund client, violated his fiduciary duties and failed to act in the fund's best interests by directing it to purchase certain assets in which he held undisclosed interests.
- In September 2025, the SEC filed and settled insider trading charges against Ryan Squillante, the former head of equity trading at Denver-based Irving Investors. The SEC alleged that he used confidential information to trade securities of at least 10 public companies for nearly \$217,000 in trading profits.



### Changes to the Wells process

In a speech in October 2025, Chair Atkins outlined intended changes to the SEC's Wells process, whereby the SEC notifies individuals or entities under investigation that enforcement staff intend to recommend charges and allows them to make factual and legal submissions. Chair Atkins has directed SEC staff to: (i) be more transparent and provide sufficient information for respondents to understand potential charges and their evidentiary basis, including key documents and testimony; (ii) increase typical deadlines for submission from two to four weeks; (iii) if requested, meet with defence counsel before making any enforcement recommendations; and (iv) where appropriate, engage in a pre-Wells white paper process to address concerns about factual or legal issues. Overall, the changes indicate that SEC leadership is placing greater emphasis on having an open, informed, and thoughtful dialogue with potential respondents, especially through the new shift to providing potential respondents access to evidentiary materials.



### Future proofing through the Crypto Task Force and encouraging IPOs

In January 2025, the SEC announced the establishment of a Crypto Task Force to 'develop a rational regulatory framework for crypto asset markets,' by providing clarity on the application of the federal securities laws to the crypto asset market and to recommending practical policy measures that aim to foster innovation and protect investors.

As part of its core mission to prioritize capital formation, and to reverse the recent decline in number of public companies, the SEC has announced reforms to disclosure rules applicable to public companies, promising to: (i) 'root its disclosure requirements in the concept of financial materiality;' and (ii) scale these requirements with a company's size and maturity. A second pillar of reform to encourage IPOs is to limit shareholder proposals that involve issues not material to the company's business, for example ESG-related proposals.



### DOJ white collar crime developments

The US Department of Justice (**DOJ**) established in 2025 that its priority is protecting US national interests, with an emphasis on cases involving: (i) fraud, foreign bribery, and money-laundering offenses that impact the competitiveness of US businesses; (ii) investment fraud and other schemes to defraud US investors, markets, or particularly vulnerable populations (such as the elderly and veterans), or that harm consumer health and safety; (iii) fraud through Variable Interest Entities, which are typically Chinese-affiliated companies listed on US exchanges which target US retail investors; or (iv) trade or customs evasion.

In February 2025, the Trump administration paused enforcement of offenses under the *Foreign Corrupt Practices Act* (**FCPA**) until the DOJ issued revised enforcement guidance. On June 9, 2025, US Deputy Attorney General Todd Blanche issued a memorandum setting out priorities and guidance for resumed enforcement of the FCPA (**Guidelines**). The Guidelines outline four factors that will inform the DOJ's FCPA enforcement priorities going forward:

1. **Protecting fair opportunities for US Companies.** The DOJ will prioritize FCPA prosecutions where alleged misconduct: (i) deprived US companies from access to international markets, or (ii) resulted in economic injury to US companies or individuals.

2. **Advancing US national security.** This factor reflects the Trump administration's view that US national security depends in substantial part on the US and its companies maintaining access to strategic business opportunities in sectors where competitive access (or, indeed, advantage) for US companies is paramount—namely 'defence, intelligence, or critical infrastructure.' The Guidelines classify the bribery of foreign officials to secure contracts in these sectors as an 'urgent threat' to American national security and therefore a priority for FCPA enforcement
3. **Serious Misconduct.** The DOJ will also consider whether alleged corrupt schemes involve serious misconduct 'that bears strong indicia of corrupt intent tied to particular individuals.' The Guidelines instruct prosecutors to avoid focusing on misconduct 'involving routine business practices,' or the type of corporate conduct that involves 'de minimis or low-dollar, generally accepted business courtesies.'
4. **Cartels and Transnational Criminal Organizations.** Prosecutors are instructed to consider whether the alleged misconduct is (i) associated with the criminal operations of cartels or TCOs, (ii) involves money laundering on behalf of cartels or TCOs, or (ii) linked to foreign government officials who have received bribes from cartels or TCOs.

#### Our take

Both the SEC and the DOJ have signaled that the prior era of 'regulation by enforcement' is dead, and they intend to focus on traditional types of corporate crime that harm investors and the United States' national interests, especially fraud cases where US citizens are victimized. Both agencies have made plain that corporate self-disclosure and cooperation will be rewarded and that the agencies welcome engagement with counsel on regulatory and enforcement matters.

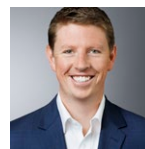
# 2026 Predictions



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## Reflecting on our 2025 predictions?

In 2025, we were happy to see ASIC and ASX respond to industry calls by taking some steps to streamline the IPO process, in particular, ASIC's introduction of new fast-track reforms for IPO timetables. We consider the effect of this development and what it may mean for future IPOs in more detail below.

However, as we highlighted in our 2025 predictions, regulatory improvements alone cannot outweigh challenging market conditions or the competition of private markets. With inflation and interest rates remaining high, the 2025 Australian IPO market was up on 2023 and 2024 and continued to build momentum, although IPO levels remained below long-term averages.

We stand by our position that there continues to be a backlog of both investor demand and supply from companies who want to IPO, with there being a gradual rise in IPOs especially in the latter half of 2025. The beginning of this increase was marked by the largest IPOs of the year occurring in mid-2025, including GemLife, Virgin Australia and Greatland Resources. Our discussions with participants in the IPO market indicate that there is a greater level of confidence in the 2026 IPO market pipeline and the companies that are filling it.

## 2026 predictions

### IPOs

The calendar year started well for IPO sentiment. IPO market commentary and active IPO processes focussed on the first half of 2026 was suggesting greater activity and preparedness to undertake an IPO in 2026 rather than simply defaulting to a private market solution or a continuation of the status quo. The growing interest in IPOs was seen both from founders and also private capital owners of IPO candidates.

In recent weeks however, war in the Middle East and the resulting impact on oil prices, inflation and interest rates has created significant uncertainty in markets and from IPO candidates as to whether a process early in 2026 is the right approach. Our sense is that the majority of candidates are waiting to see how things develop before committing to a process in early 2026. This may result in activity again being focused on the second half.

Beyond that and in particular where markets are volatile, we expect ASIC's fast-track IPO reforms to be a meaningful tailwind for IPOs in 2026. The key benefit to this reform is shortening the period during which investors are 'on risk' before securities can be traded on market, which is even more important when markets are volatile.

### Private capital

Provided the current uncertainty dissipates, given we expect public markets to present attractive IPO opportunities in 2026, we anticipate that private and venture capital will be an active supplier of assets to public markets. However, private and venture capital will also remain the strongest alternative to public markets both through new acquisitions of assets that may otherwise come to public markets and through recycling of assets between themselves.

While private capital will continue to pursue private exits or sell to strategic acquirers, improving IPO conditions increase the likelihood that mature private capital held assets will again feed the public market pipeline. Again putting aside immediate market conditions, there is increasing interest in public markets from private capital as the improved ASIC review and fast timeframes more closely align with the deal-cycle discipline which is characteristic of venture capital and private equity firms. The low volume IPO years of 2023 to 2025 have left a backlog of companies held beyond their intended cycle, creating pressure for private capital to seek liquidity. PE firms are also considering public market valuations in a new light, recognising the emerging trend that pricing outcomes are diverging between public and private markets depending on the asset and sector. We therefore expect an uptick in private capital seeking guidance on the value of their businesses and assets as the year progresses.

### Secondary markets

Though the total value of secondary capital raises was lower, the total volume of transactions increased in 2025 compared to previous years. The year was marked by several large transactions including Goodman Group's \$4 billion placement to accelerate its development and Xero's \$1.85 billion placement to fund its strategic acquisition of Melio. Raisings such as these signal the willingness of listed companies to return to the secondary markets to fund growth and M&A opportunities.

Secondary market activity will similarly remain exposed to shifts in global markets which may impact the timing and sizing of raisings. If the war in the Middle East resolves itself quickly, we may see the momentum from 2025 continuing. Conversely on the downside, if the war in the Middle East drags on, we may see increased interest rates and reduced consumer activity actually create increased demand for equity capital – both given the increasing cost of debt and the potential need for companies to bolster their balance sheets to weather broader market downturns.

### Sectors to watch

The IPO environment in 2026 will likely see technology, biotech and AI based firms represent a particularly active sector. Multiple technology and AI aligned entities have been identified as potential participants in the pipeline for the next wave of IPOs, all entering 2026 with positive sector sentiment.

We also expect continued issuances in the metals and mining, healthcare, life sciences and pharmaceuticals sectors with various candidates poised to ramp up activity in the first half of 2026, along with larger energy-based names (particularly those supportive of energy transition) to continue to be a leading sector for secondary raisings. Active participation by Listed Investment Companies (**LICs**) and Listed Investment Trusts (**LITs**) is set to continue after being the second largest industry group represented amongst IPO candidates in 2025.

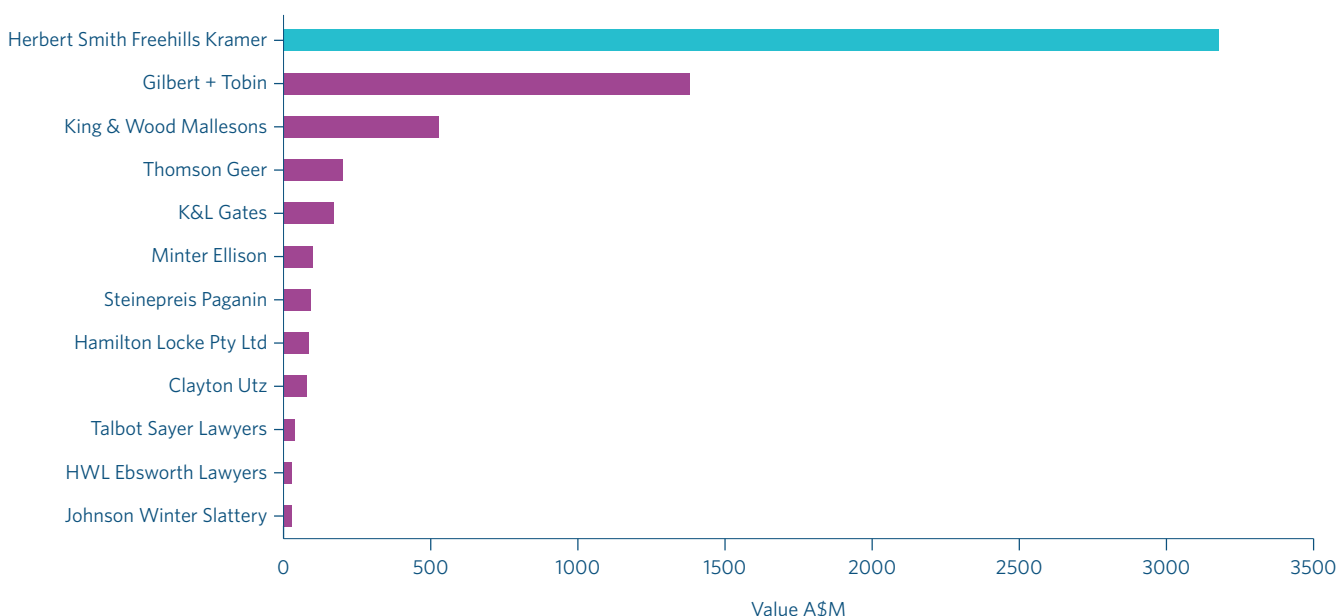
Across sectors, issuers with defensible earnings, structural growth drivers or lower sensitivity to global macro-political volatility are likely to be best placed to access capital, particularly if uncertainty continues to influence global equity market sentiment.

# About Herbert Smith Freehills Kramer

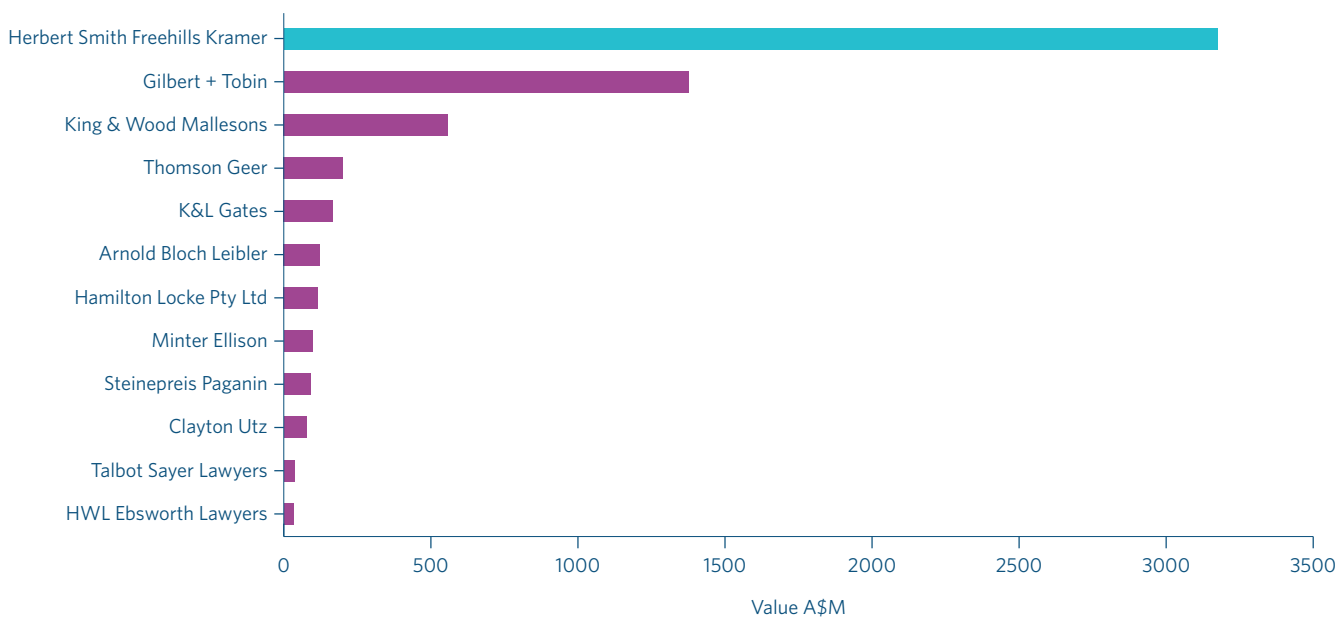
Herbert Smith Freehills Kramer is recognised as Australia’s leading law firm for IPOs and Equity deals, and we have acted on more ASX IPOs by number since 1998 than any other top tier law firm (LSEG Data & Analytics). Described as ‘the best by a very long distance’ and as having ‘top-quality assistance available across any area that

a transaction may require’ (Chambers Asia Pacific), Herbert Smith Freehills Kramer has been awarded the highest possible ranking in the area of Australian Equity Capital Markets by Chambers Global, Asia Pacific Legal 500 and IFLR 1000 every year since 2004.

## 2023-2025 Australian IPOs (issuer Australian advisers) by deal value



## 2023 - 2025 Australian Equity deals (issuer Australian advisers) by deal value



### Some of the Herbert Smith Freehills Kramer team's recent IPOs include advising:

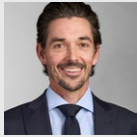
- GemLife Communities on its \$750 million IPO and listing on the ASX with an approximate market capitalisation of \$1.6 billion
- Merrill Lynch Equities, Barrenjoey Markets and Canaccord Genuity as joint lead managers in relation to the redomiciliation and IPO of Greatland Resources, comprising a \$50 million primary raise and a \$440 million secondary sell-down, with an approximate market capitalisation of \$4.9 billion
- Euroz Hartleys and Canaccord Genuity as joint lead managers, in relation to the \$120 million IPO of Robex Resources, with an approximate market capitalisation of \$675 million
- Barrenjoey and Morgans as joint lead managers and underwriters in relation to the \$25 million IPO of Tetratherix, with a market capitalisation of \$145 million
- Canaccord Genuity as lead manager, bookrunner and underwriter in relation to the \$75 million IPO of Orezone Gold Corporation with a market capitalisation of more than \$680 million
- Bell Potter, Morgans and E&P as joint lead managers, in relation to the A\$230.8 million IPO of Saluda Medical Inc with an approximate market capitalisation of \$775 million
- Canaccord Genuity and E&P as joint lead managers and underwriters in relation to the A\$100 million IPO of Carma Limited, with an approximate market capitalisation of \$370 million
- HMC Capital on establishing a global digital infrastructure platform, DigiCo Infrastructure REIT, and its \$1.9 billion IPO with an approximate market capitalisation of \$2.75 billion
- Barrenjoey and Morgan Stanley as joint lead managers and underwriters of the Guzman y Gomez \$335.1 million IPO with a market capitalisation of \$2.2 billion
- Vitrafy Life Sciences on its IPO, raising \$35 million for a \$117.5 million listing on the ASX
- MA Financial on the establishment, IPO and listing of its \$330 million private credit investment trust
- Telix Pharmaceuticals on its proposed US public offering of American Depository Shares and listing on the Nasdaq Global Market
- ANZ Securities Limited, Citigroup Global Markets Australia Pty Limited, Commonwealth Bank of Australia, E&P Capital Pty Limited, Morgans Financial Limited, Macquarie Capital (Australia) Limited, Morgans Financial Limited, National Australia Bank Limited, Ord Minnett Limited, Shaw and Partners Limited, Westpac Institutional Bank as joint lead managers in relation to the \$1.5 billion IPO of Macquarie Group Capital Notes 7 and the reinvestment offer for ANZ Capital Notes 3
- Bell Potter Securities Limited as APAC lead manager on the Anteris Technologies Global Corp listing on Nasdaq
- ANZ Securities Limited, Bell Potter Securities Limited, Commonwealth Bank of Australia, E&P Corporate Advisory Pty Limited, Morgans Financial Limited, Morgan Stanley Australia Securities Limited, National Australia Bank Limited, Ord Minnett Limited, Shaw and Partners Limited, UBS AG, Australia Branch and Westpac Institutional Bank, a division of Westpac Banking Corporation as joint lead managers in relation to the \$1.7 billion IPO of ANZ Capital Notes 9 and the reinvestment offer for ANZ Capital Notes 4
- Redox Limited on its IPO, raising \$402 million for a \$1.34 billion listing on the ASX
- GQG Partners Inc. on its \$1.2 billion IPO and listing with a market capitalisation of \$5.9 billion
- Ventia Services Group Limited on its \$438 million IPO and listing with a market capitalisation of \$1.45 billion
- Step One Clothing Limited on its \$81.3 million IPO and listing with a market capitalisation of \$283.6 million
- Tulla Resources Plc on its \$78.3 million IPO and listing with a market capitalisation of \$243.8 million
- Scientific Games Corporation on its proposed IPO and dual track process to dispose of its US\$6.05 billion lottery services business
- UBS AG, Australia Branch, Merrill Lynch Equities (Australia) Limited and Credit Suisse (Australia) Limited on their role as underwriters and joint lead managers of the \$982.1 million APM Human Services International Limited IPO with a market capitalisation of \$3.3 billion
- Credit Suisse (Australia) Limited and UBS AG, Australia Branch on their role as underwriters and joint lead managers of the \$376.1 million Vulcan Energy Resources Limited IPO with a market capitalisation of \$933 million
- Macquarie Capital (Australia) Limited, Credit Suisse (Australia) Limited and Morgan Stanley Australia Securities Limited on their role as underwriters and joint lead managers of the \$527.8 million 29Metals Limited IPO with a market capitalisation of \$960.9 million
- Dalrymple Bay Infrastructure Limited on its \$1.286 billion IPO and listing with a market capitalisation of \$1.286 billion
- Booktopia Group Limited on its \$43.1 million IPO and listing with a market capitalisation of \$315.8 million
- Coronado Global Resources on its \$773 million IPO and listing with a market capitalisation of \$3.87 billion
- Netwealth Group Limited on its \$264 million IPO and listing with a market capitalisation of \$879 million
- Inghams Group Limited on its \$596 million IPO and listing with a market capitalisation of \$1.2 billion
- Reliance Worldwide Corporation Limited on its \$919 million IPO and listing with a market capitalisation of \$1.3 billion
- Propertylink Group on its \$503.5 million IPO of triple-stapled securities and listing with a market capitalisation of \$536 million
- Adairs Limited on its \$220 million IPO and listing with a market capitalisation of \$400 million
- Aventus Retail Property Fund on its \$303 million IPO and listing with a market capitalisation of \$687 million
- The Australian Government on Medibank Private's \$5.9 billion IPO

**Some of the Herbert Smith Freehills Kramer team's recent secondary raisings include advising:**

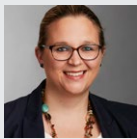
- PYC on its \$537 million placement and institutional entitlement offer, with further funds to be raised through the retail component of the entitlement offer
- Austal Limited on its \$220 million institutional placement
- Ryman Healthcare Limited on its NZ\$1 billion placement and entitlement offer
- UBS, Canaccord Genuity, Argonaut Securities as joint lead managers and UBS, Canaccord and Argonaut PCF as underwriters in relation to the \$156 million institutional placement of Bellevue Gold Limited
- ALS on its \$390 million fully underwritten placement and non-underwritten share purchase plan
- JP Morgan and UBS as joint lead managers and underwriters in relation to the \$2.05 billion institutional placement and share purchase plan of in Xero Limited
- ikeGPS Group Limited on its \$20 million fully underwritten placement and \$2 million share purchase plan
- UBS, Bell Potter and Argonaut as joint lead managers and underwriters in relation to the \$316 million placement of Liontown Resources Limited
- Canaccord Genuity and Shaw and Partners as joint lead managers and underwriters in relation to the \$69.9 million two-tranche institutional placement and entitlement offer of Peninsula Energy
- Barrenjoey and Curran & Co as joint lead managers in relation to the \$50 million institutional placement of Amaero Limited
- Barrenjoey and Macquarie as joint lead managers and underwriters in relation to the \$750 million institutional placement of Lynas Rare Earth Limited
- Macquarie, Euroz Hartleys and Beacon Securities as joint lead managers in relation to the \$80 million institutional placement of Marimaca Copper
- MA Financial Group in relation to its \$190.5 million non-renounceable entitlement offer
- Morgans and Aitken Mount Capital Partners as joint lead managers in relation to the \$51.2 million institutional placement and \$5 million share purchase plan of LGI
- Australian Unity in relation to its \$209.8 million capital raising, comprising a \$160 million wholesale placement and a \$49.8 million pro rata non-renounceable offer
- Genmin in relation to its \$25.7 million non-underwritten, two-tranche placement
- Merrill Lynch and UBS as joint lead managers and underwriters in relation to the \$200 million institutional placement of Megaport Limited
- Barrenjoey and Canaccord Genuity as joint lead managers in relation to the \$25 million placement of Finders Energy Holdings Limited
- Goldman Sachs and Canaccord Genuity as joint lead managers and underwriters in relation to the \$130 million institutional placement of Catapult Sports Limited
- NEXTDC in relation to its \$1.321 billion fully underwritten accelerated non-renounceable entitlement offer
- Independent Board Committee of Energy Resources of Australia as issuer on its \$880 million entitlement offer
- Telix Pharmaceuticals on the issue of \$650 million 2.375 per cent convertible notes due in 2029
- NEXTDC Limited in relation to its \$550 million placement and \$200 million share purchase plan
- Goldman Sachs Australia Pty Limited as sole lead manager, bookrunner and underwriter to Orica Limited's \$400 million placement and share purchase plan to raise up to \$65 million
- Metcash Limited in relation to its \$300 million placement and share purchase plan to raise up to \$60 million
- HMC Capital Limited in relation to its fully underwritten \$300 million institutional placement
- Spartan Resources Limited on its \$220 million institutional placement
- Australian Unity in relation to its entitlement offer and accompanying placement of mutual capital instruments to raise approximately \$153 million
- Macquarie Capital (Australia) Limited, Canaccord Genuity (Australia) Limited and UBS Securities Australia Limited as joint lead managers as underwriters, joint lead managers and bookrunners on Bellevue Gold Limited's \$150 million institutional placement
- Bell Potter as sole underwriter, and Bell Potter, Wilsons and Canaccord Genuity as joint bookrunners and joint lead managers in relation to the Immutep Limited approximately \$100.2 million placement and entitlement offer
- Barrenjoey Markets Pty Limited and Macquarie Capital (Australia) Limited as joint lead managers and underwriter to IPH Limited's \$100 million placement and share purchase plan to raise up to \$25 million
- HMC Capital Limited in relation to its \$100 million placement and share purchase plan to raise up to \$30 million
- Bell Potter Securities Limited and Shaw and Partners Limited as joint lead managers and underwriter to DroneShield Limited's \$120 million placement and \$15 million share purchase plan
- Bowen Coking Coal Limited on its partially-underwritten \$70 million equity raising by way of renounceable entitlement offer
- Highfield Resources Limited on its US\$250 million placement and acquisition of a Canadian potash project for US\$286 million worth of shares in Highfield Resources Limited, as well as its US\$15 million short term funding and US\$1.5 million share purchase plan
- 29Metals Limited in relation to its \$180 million placement and entitlement offer
- Macquarie Capital (Australia) Limited and Bell Potter Securities Limited as joint lead managers to Alpha HPA Limited's \$175 million placement

# Our team

## Australian team



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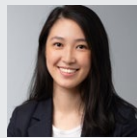
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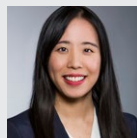
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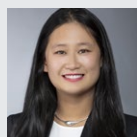
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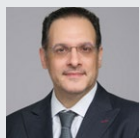


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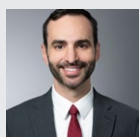


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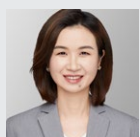
## US securities team



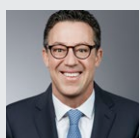
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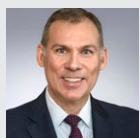
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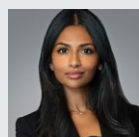
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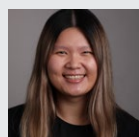
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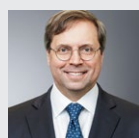
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