Finance & Capital Markets

QUARTERLY REPORT

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Market Trends

- U.S. financing activity in Q2 2026 generally increased compared to Q1 2026. Total proceeds from U.S. high-yield bond issuances were up 56.3%, IPO proceeds rose more than 10 times (driven by several large mega-listings) and follow-on equity offering proceeds were up 69.9%. Investment-grade bond issuances declined 20.9% quarter-over-quarter, although proceeds remained substantial at $482.9 billion. In the leveraged loan market, quarter-over-quarter issuances decreased by 20.2%, with average yields dropping 40.2 basis points.
- Year-over-year trends for Q2 2026 relative to Q2 2025 were broadly positive. Total proceeds increased across high-yield bond issuances, investment-grade bond issuances, IPOs and follow-on equity offerings, with particularly strong growth in equity capital markets activity. Leveraged loan issuances rose 3.6%, with average yield dropping 142.8 basis points over the same period.
- Treasury yields rose across maturities during the second quarter of 2026, with the 5-year, 10-year and 30-year yields increasing relative to both Q1 2026 and Q2 2025 levels, leading to a higher rate environment heading into Q3.

Other Developments

- The SEC published its 2026 Unified Agenda of Regulatory and Deregulatory Actions on July 7, 2026, centering on digital assets, measures to encourage IPOs, and expanded retail access to private markets.
- The SEC's Division of Corporation Finance granted an exemptive order on June 30, 2026 expanding the availability of five-business-day tender and exchange offers for non-convertible debt securities, replacing the SEC staff's 2015 no-action position.
- The SEC proposed amendments to broaden access to registered public offerings by removing the 12-month reporting-history requirement and $75 million public-float threshold for Form S-3 shelf registration, a change the SEC estimates would increase eligible public companies by more than 60%.
- The SEC proposed amendments that would move public companies toward a two-category filer status system of large accelerated filers and non-accelerated filers. The SEC estimates roughly 81% of current public companies would qualify as non-accelerated filers, which would significantly simplify the public company reporting and reduce executive compensation disclosure obligations for these issuers.
- The grandfathering exception under Article 21c of the European Union's sixth Capital Requirements Directive ("CRD VI") ended on July 10, 2026. Starting on July 11, 2026, non-EU banks that enter into contracts to provide "core banking services" to EU borrowers are required to comply with the branch establishment requirements under Article 21c.

Market Trends—Overview

Capital Markets

	Activity	
	VS. Q2 2025	VS. Q1 2026
INVESTMENT-GRADE BONDS (PROCEEDS)	+35.7%	(20.9)%
HIGH-YIELD BONDS (PROCEEDS)	+31.4%	+56.3%
IPOS (NUMBER / PROCEEDS)	+18.6% / +1509.6%	+45.7%/+968.2%
EQUITY FOLLOW-ONS (NUMBER / PROCEEDS)	+31.3% / +201.4%	+18.0% / +69.9%

	Avg. Pricing[1]	
	VS. Q2 2025	VS. Q1 2026
INVESTMENT-GRADE BONDS (A- TO AAA / BBB- TO BBB+)	(16.8)% / (10.7)%	(3.8)% / +5.1%
HIGH-YIELD BONDS (BB- TO BB+ / B- TO B+)	(5.5)% / (4.5)%	+10.9% / +9.8%
5-YEAR TREASURY	+10.55	+6.89%
10-YEAR TREASURY	+4.72%	+3.26%

[1] Based on average spread over treasuries for investment-grade bonds, average initial yield for high-yield bonds and average yield for treasuries.

Banking

	Activity	
	VS. Q2 2025	VS. Q1 2026
SYNDICATED LEVERAGED LOAN ISSUANCE VOLUME (TOTAL / PRO RATA / INSTITUTIONAL)	+3.6% / (20.0)% / +26.2%	(20.2%) / (35.1)%/ (7.3)%

	Avg. Pricing	
	VS. Q2 2025	VS. Q1 2026
SYNDICATED LEVERAGED LOANS INITIAL YIELD	(1.43)%	(0.40)%
LCD FLOW NAME INDEX BID PRICE	(1.45)%	(0.62)%

Restructuring

	Activity	
	VS. Q2 2025	VS. Q1 2026
LEVERAGED LOAN DEFAULT RATE (LTM BY AMOUNT / LTM BY ISSUER COUNT)	+0.4% / +0.1%	(0.2)% / +0.0%
BANKRUPTCY FILINGS (NUMBER)	5.4%	9.0%

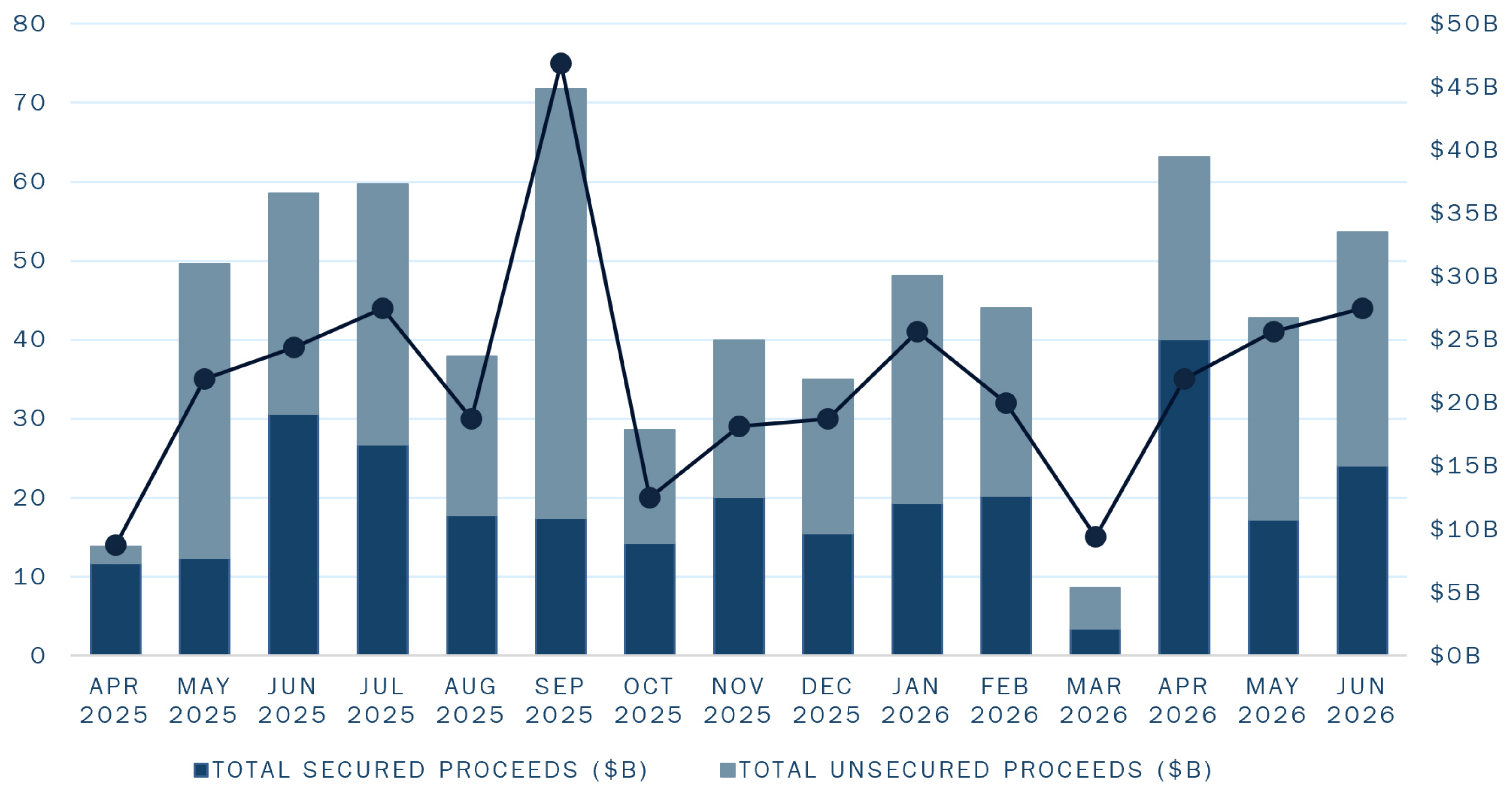
Market Trends

BONDS

U.S. High-Yield Bonds

Total proceeds from U.S. high-yield bond issuances were $100.2B in the second quarter of 2026, up 56.3% as compared to the first quarter of 2026 ($64.1B) and up 31.4% as compared to the second quarter of 2025 ($76.2B). Total proceeds from unsecured high-yield bond issuances were $48.8B in the second quarter of 2026, up 35.6% as compared to $36.0B in the first quarter of 2026 and up 16.1% as compared to $42.0B in the second quarter of 2025. Total proceeds from secured high-yield bond issuances were $50.9B in the second quarter of 2026, up 89.1% as compared to $26.9B in the first quarter of 2026 and up 48.8% as compared to $34.2B in the second quarter of 2025.

U.S. High-Yield Bond Issuance Volume



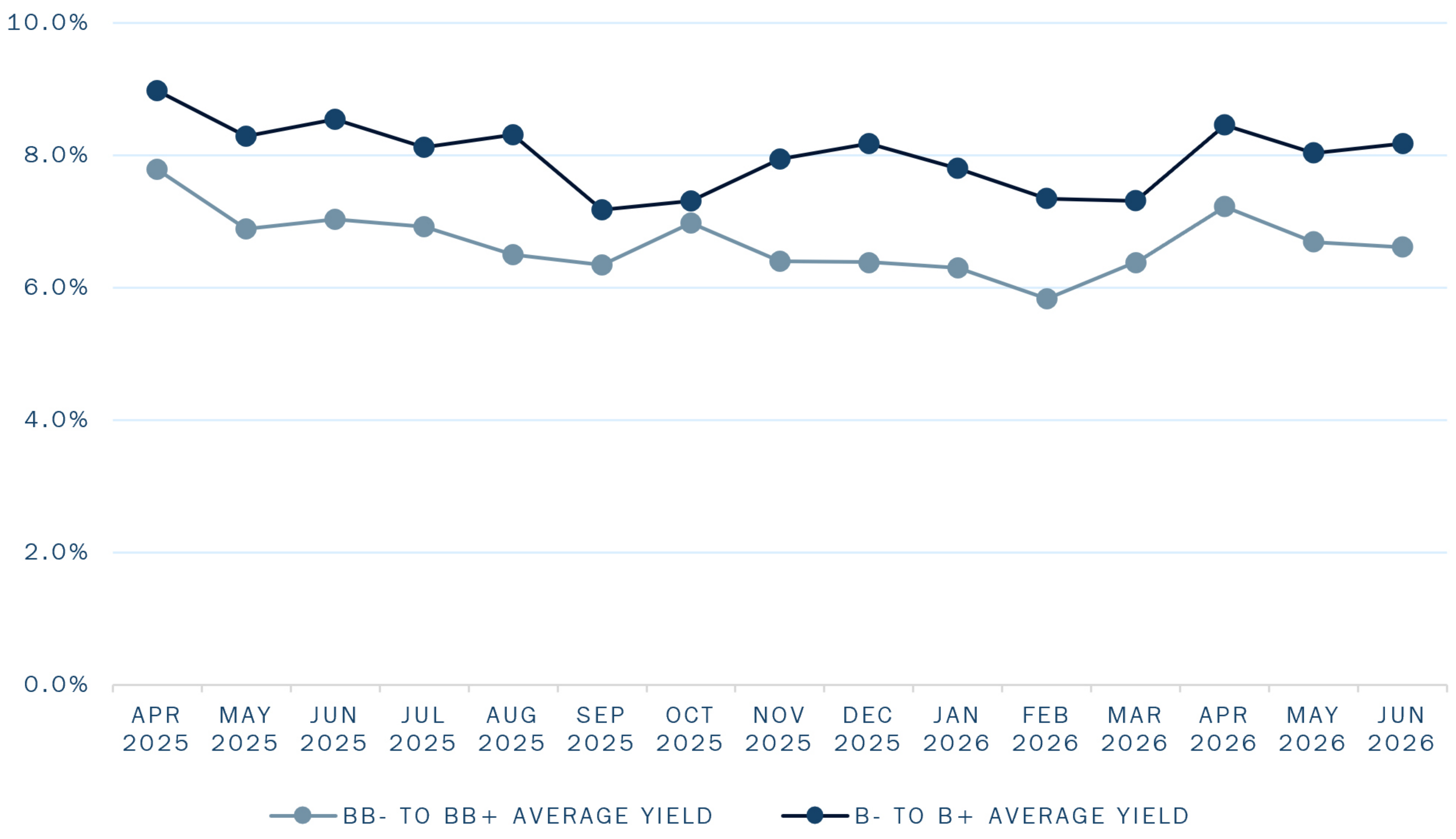
Data Source: Pitchbook | Leveraged Commentary & Data (LCD)

Market Trends

BONDS

The average initial yield on high-yield notes rated BB- to BB+ issued in the second quarter of 2026 was 6.8%, higher than the average initial yield of 6.2% in the first quarter of 2026 and lower than the average initial yield of 7.2% in the second quarter of 2025. The average initial yield on high-yield notes rated B- to B+ issued in the second quarter of 2026 was 8.2%, as compared to 7.5% in the first quarter of 2026 and 8.6% in the second quarter of 2025.

U.S. High-Yield Bond Issuance (average initial yield)



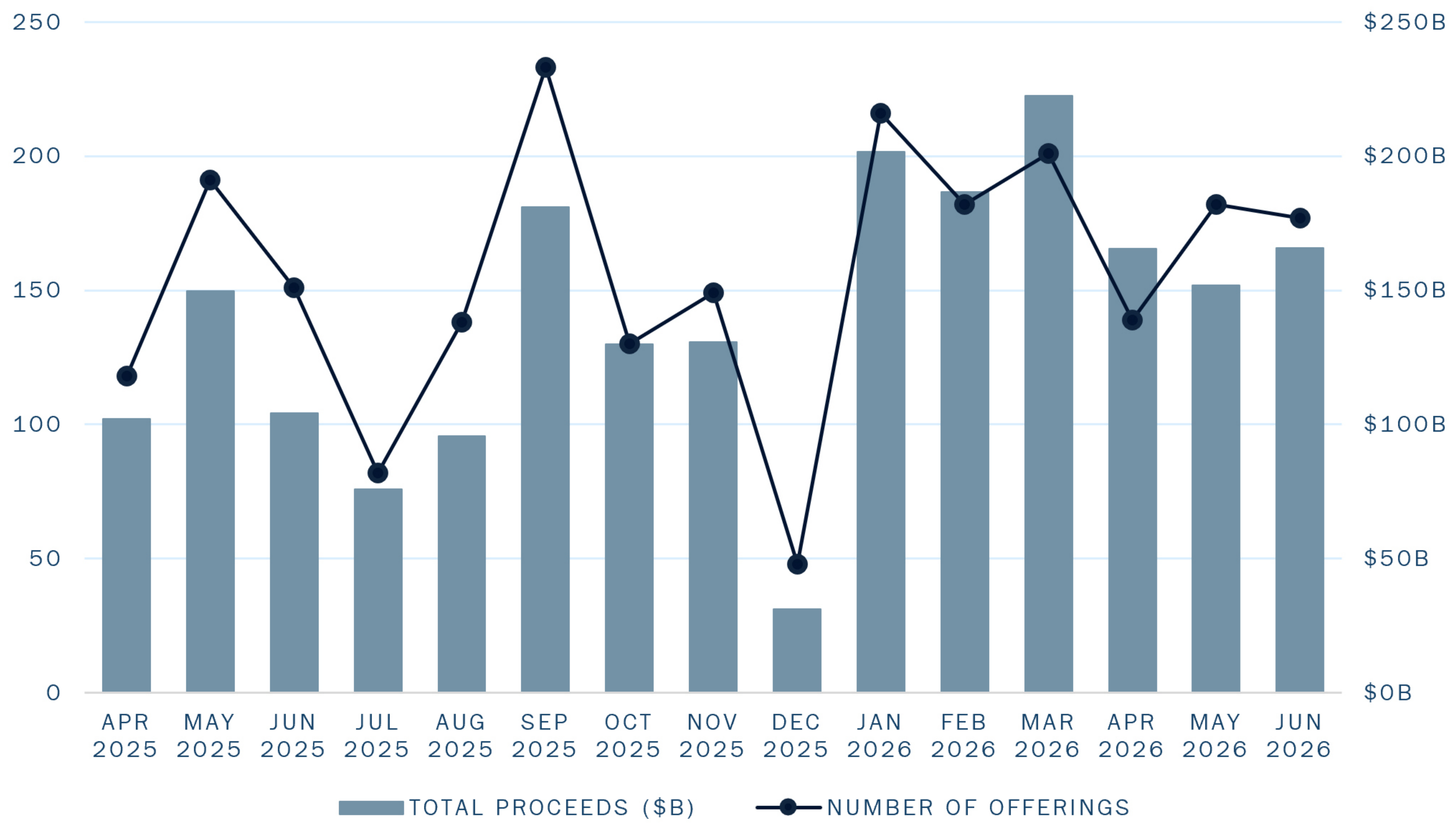
Data Source: Pitchbook | Leveraged Commentary & Data (LCD)

Market Trends

U.S. Investment-Grade Bonds

Total proceeds from U.S. investment-grade issuances were $482.9B in the second quarter of 2026, down 20.9% from $610.6B in the first quarter of 2026 and up 35.7% from $355.8B in the second quarter of 2025.

U.S. Investment-Grade Bond Issuance Volume



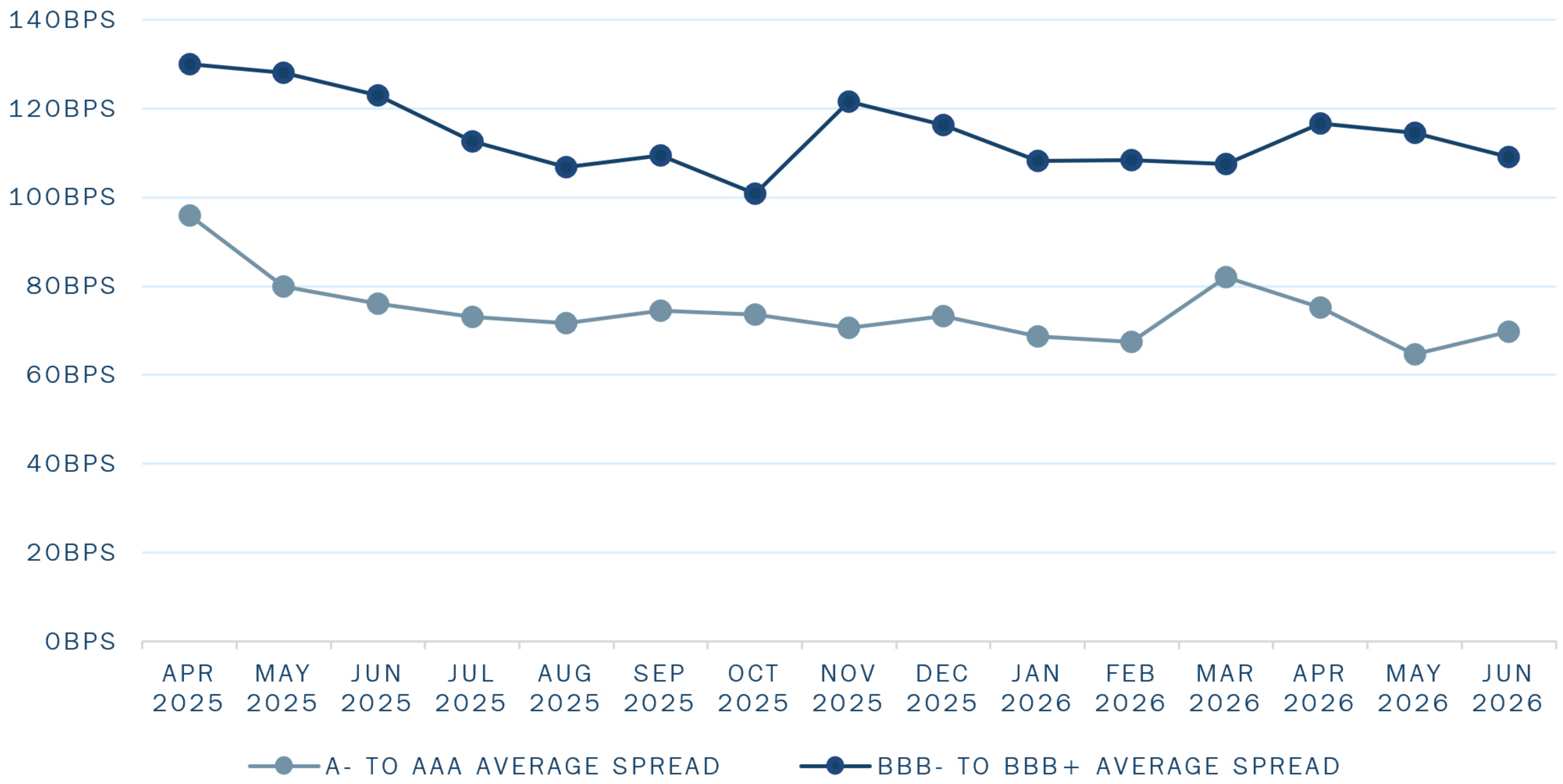
Data Source: Pitchbook | Leveraged Commentary & Data (LCD)

Market Trends

BONDS

The average pricing spread (measured over the comparable Treasury) on U.S. issuances of investment-grade notes rated A- to AAA in the second quarter of 2026 decreased 3 bps as compared to the average pricing spread for the first quarter of 2026 and decreased 14 bps as compared to the average pricing spread for the second quarter of 2025. The average pricing spread (measured over the comparable Treasury) on U.S. issuances of investment-grade notes rated BBB- to BBB+ in the second quarter of 2026 increased 5 bps as compared to the average pricing spread for the first quarter of 2026 and decreased 14 bps as compared to the average pricing spread for the second quarter of 2025.

U.S. Investment-Grade Bond Issuance Pricing (spread over comparable Treasury)



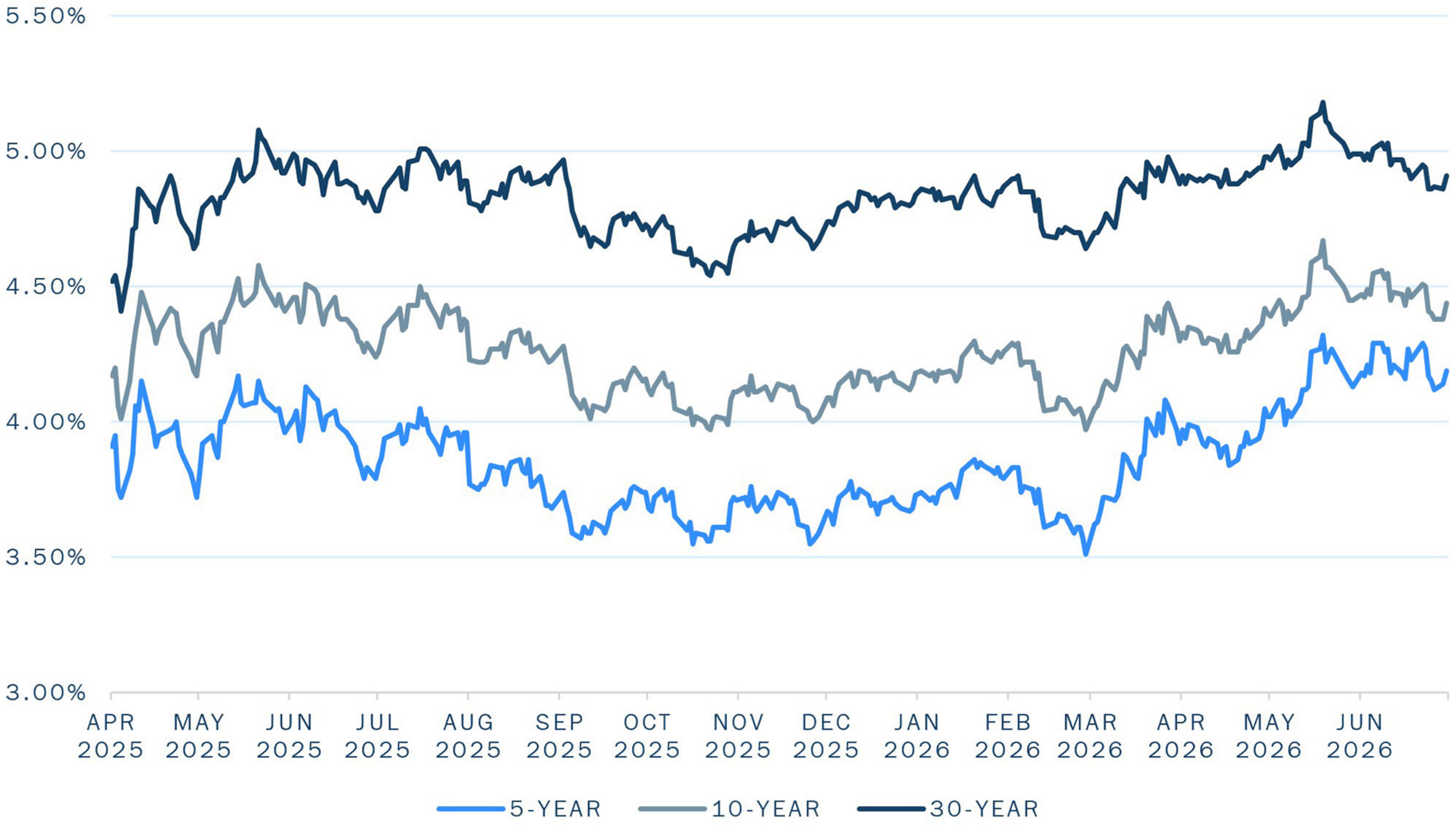
Data Source: Pitchbook | Leveraged Commentary & Data (LCD)

Market Trends

U.S. Treasury 5-year, 10-year and 30-year Yields

U.S. Treasury 5-year yields increased to 4.19% at the end of the second quarter of 2026, up 27 bps as compared to the end of the first quarter of 2026 and up 40 bps as compared to the end of the second quarter of 2025. U.S. Treasury 10-year yields increased to 4.44% at the end of the second quarter of 2026, up 14 bps as compared to the end of the first quarter of 2026 and up 20 bps as compared to the end of the second quarter of 2025. U.S. Treasury 30-year yields increased to 4.91% at the end of the second quarter of 2026, up 3 bps as compared to the end of the first quarter of 2026 and up 13 bps as compared to the end of the second quarter of 2025.

U.S. Treasury Yields



Data Source: U.S. Department of the Treasury

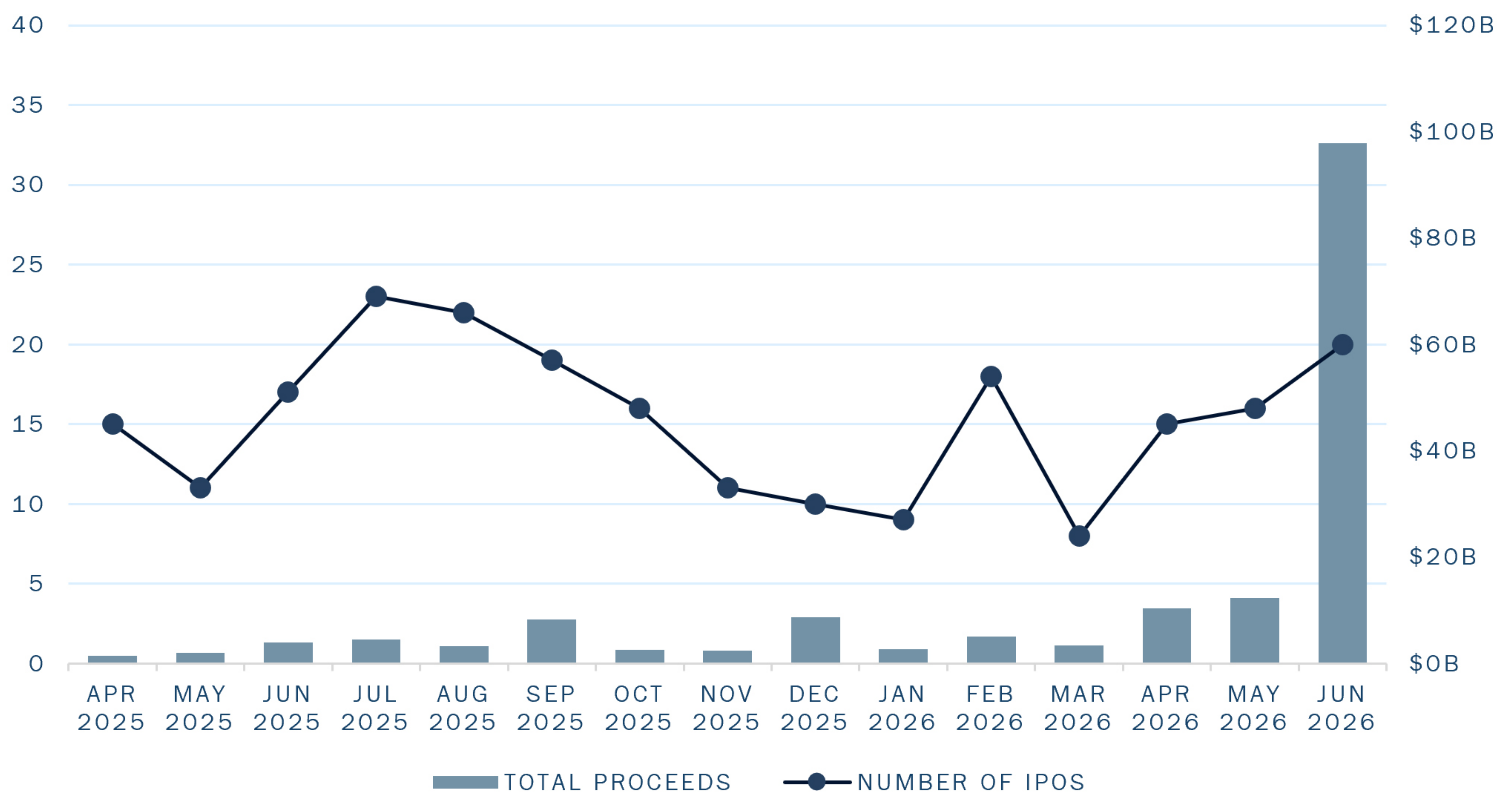
Market Trends

EQUITY

U.S. IPOs

The $120.6B in total proceeds from U.S. IPOs (not including SPACs) in the second quarter of 2026 was more than 10 times the $11.3B in total proceeds in the first quarter of 2026 and approximately 16 times the $7.5B in total proceeds in the second quarter of 2025. The significant increase was largely driven by several large mega-listings, including SpaceX's $86 billion IPO in June 2026, which was the largest IPO in history.

U.S. IPOs (not including SPACs)



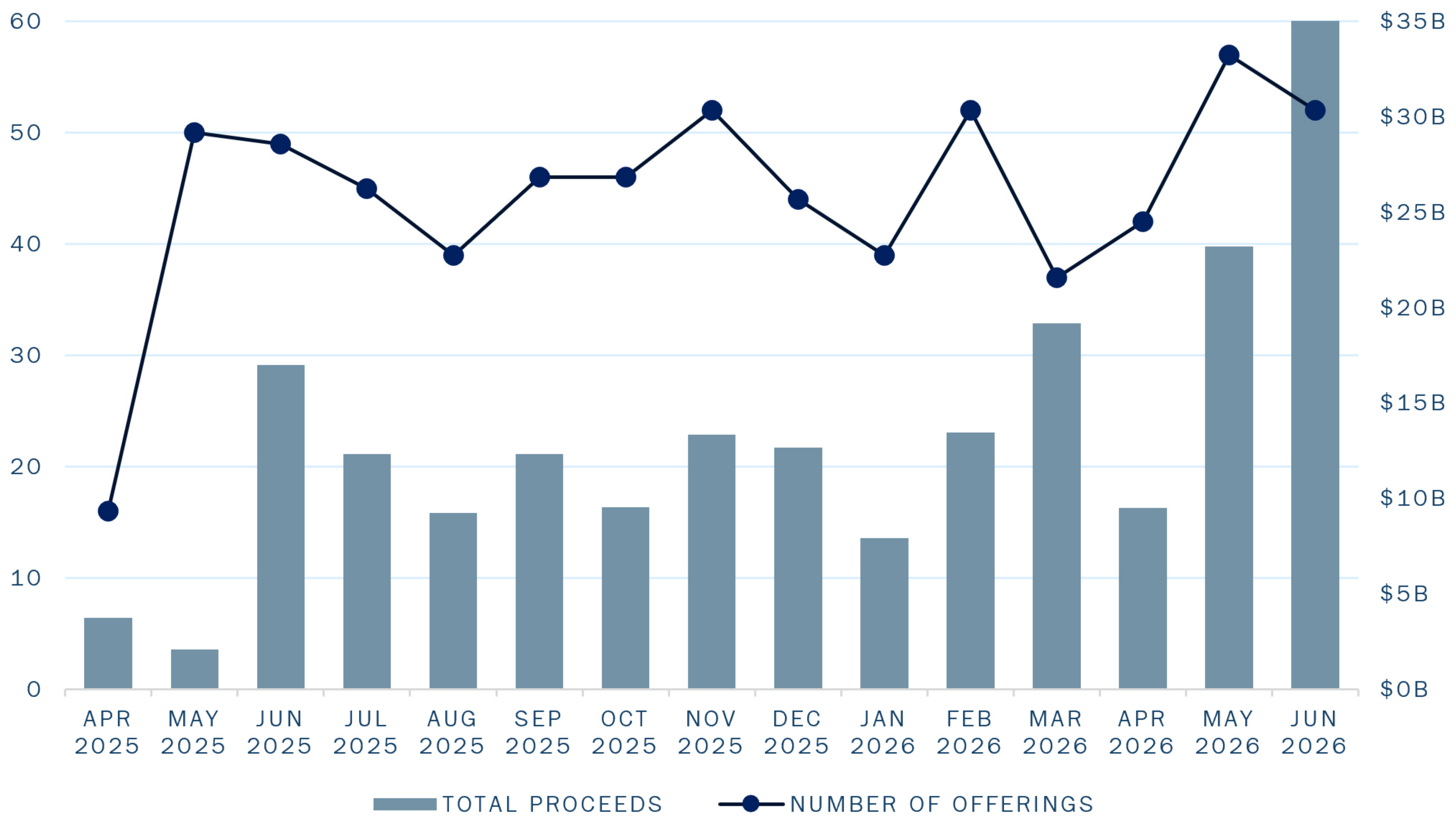
Data Source: Refinitiv, an LSEG Business

Market Trends

U.S. Follow-On Offerings

U.S. Follow-On Offerings

The $68.9B in total proceeds from U.S. follow-on equity offerings in the second quarter of 2026 was up 69.9% as compared to $40.5B in total proceeds in the first quarter of 2026 and up 201.4% as compared to $22.9B in total proceeds in the second quarter of 2025.



Data Source: *Refinitiv, an LSEG Business*

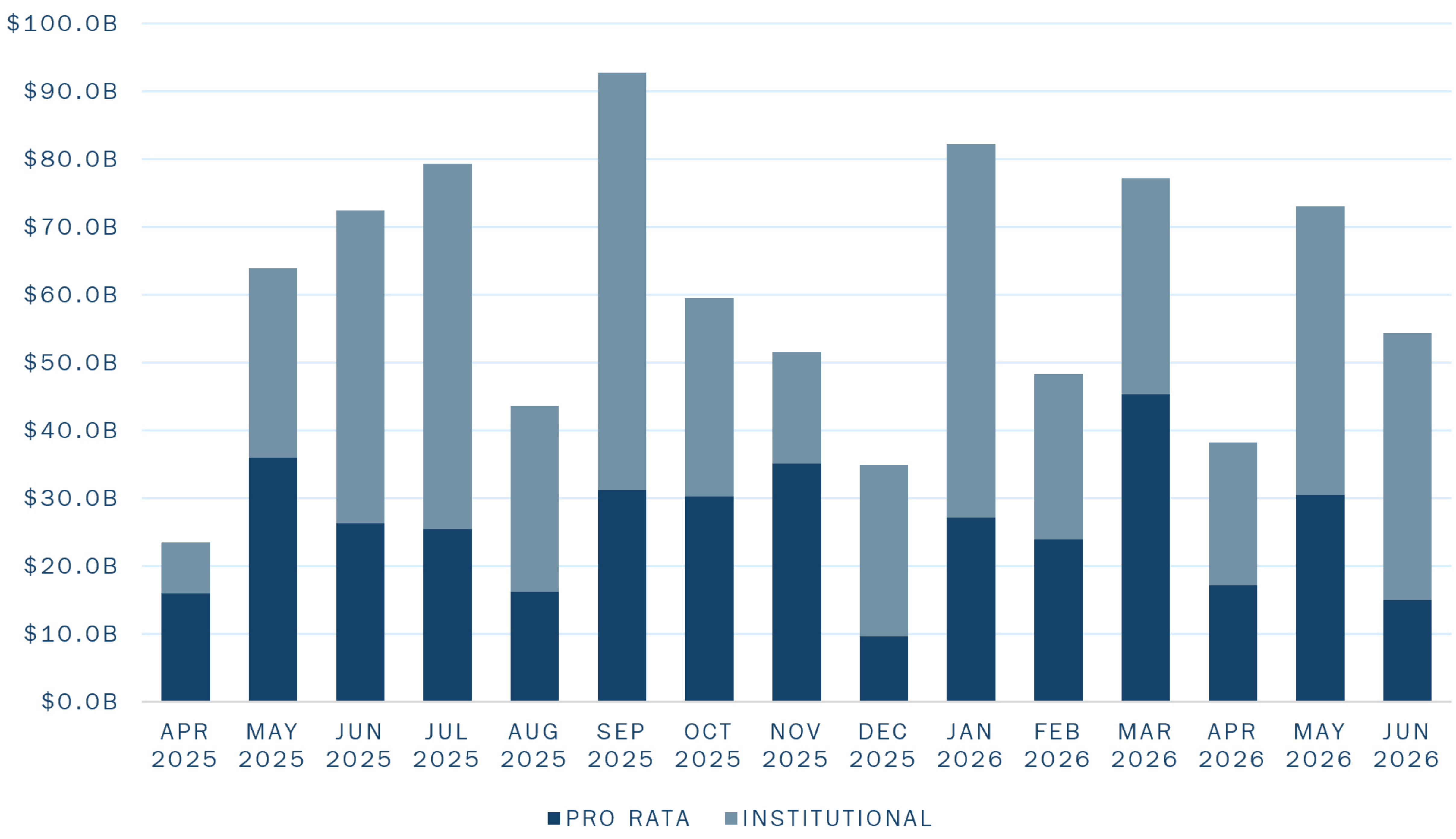
Market Trends

LOANS

U.S. Syndicated Leveraged Loan Issuances

U.S. syndicated leveraged loan issuances declined in the second quarter of 2026. Total volume this quarter, $165.8B, represented a 20.2% decrease versus the first quarter of 2026 ($207.8B) and was driven largely by declines in pro rata loan volume, which dipped to $62.6B in the second quarter of the year (down 35.1% versus the first quarter of 2026 ($96.4B)), while institutional loan volume slipped 7.3%, to $103.2B (from $111.3B in the prior quarter). Year-over-year, total volume was up 3.6% versus the second quarter of 2025 ($160.0B), with the increase led by a 26.2% increase in institutional loan volume, from $81.7B in the second quarter of last year to $103.2B in 2026. Pro rata loan volume fell 20.0% compared to the second quarter of last year, from $78.2B to $62.6B.

U.S. Syndicated Leveraged Loan Issuances (Total)



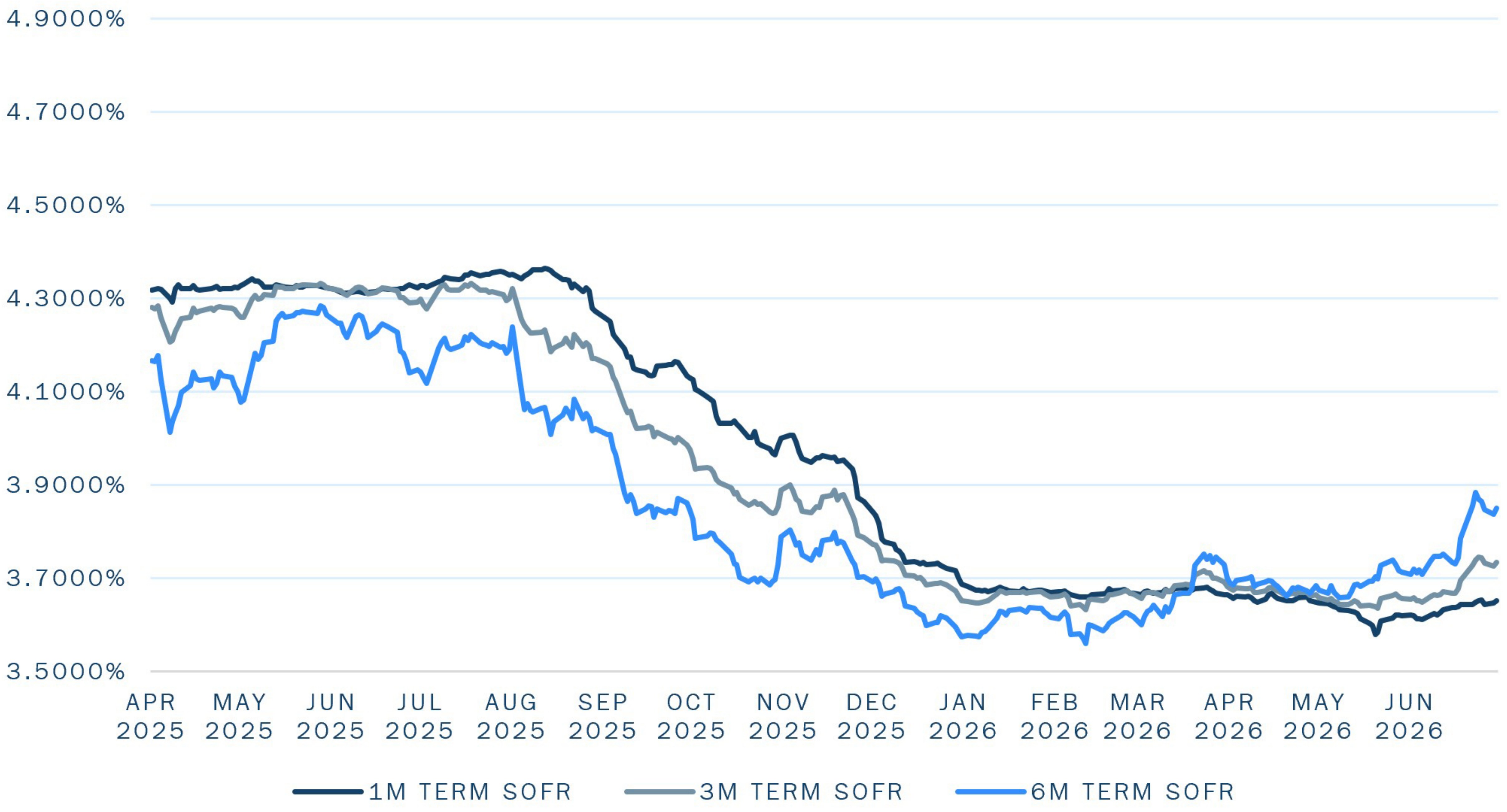
Data Source: *Leveraged Commentary & Data (LCD)*

Market Trends

Term SOFR Reference Rate

Term SOFR ended the second quarter of 2026 at 3.65%, 3.73% and 3.85% for the one-month, three-month and six-month tenors, respectively. Compared to the last day of the first quarter of 2026, the one-month tenor decreased by 1 basis point, the three-month tenor increased by 5 basis points and the six-month tenor increased by 15 basis points. The yield curve inversion that began on November 30, 2023 largely abated throughout the second quarter of 2026, with longer-dated maturities consistently having higher Term SOFR than shorter-dated ones.

Term SOFR



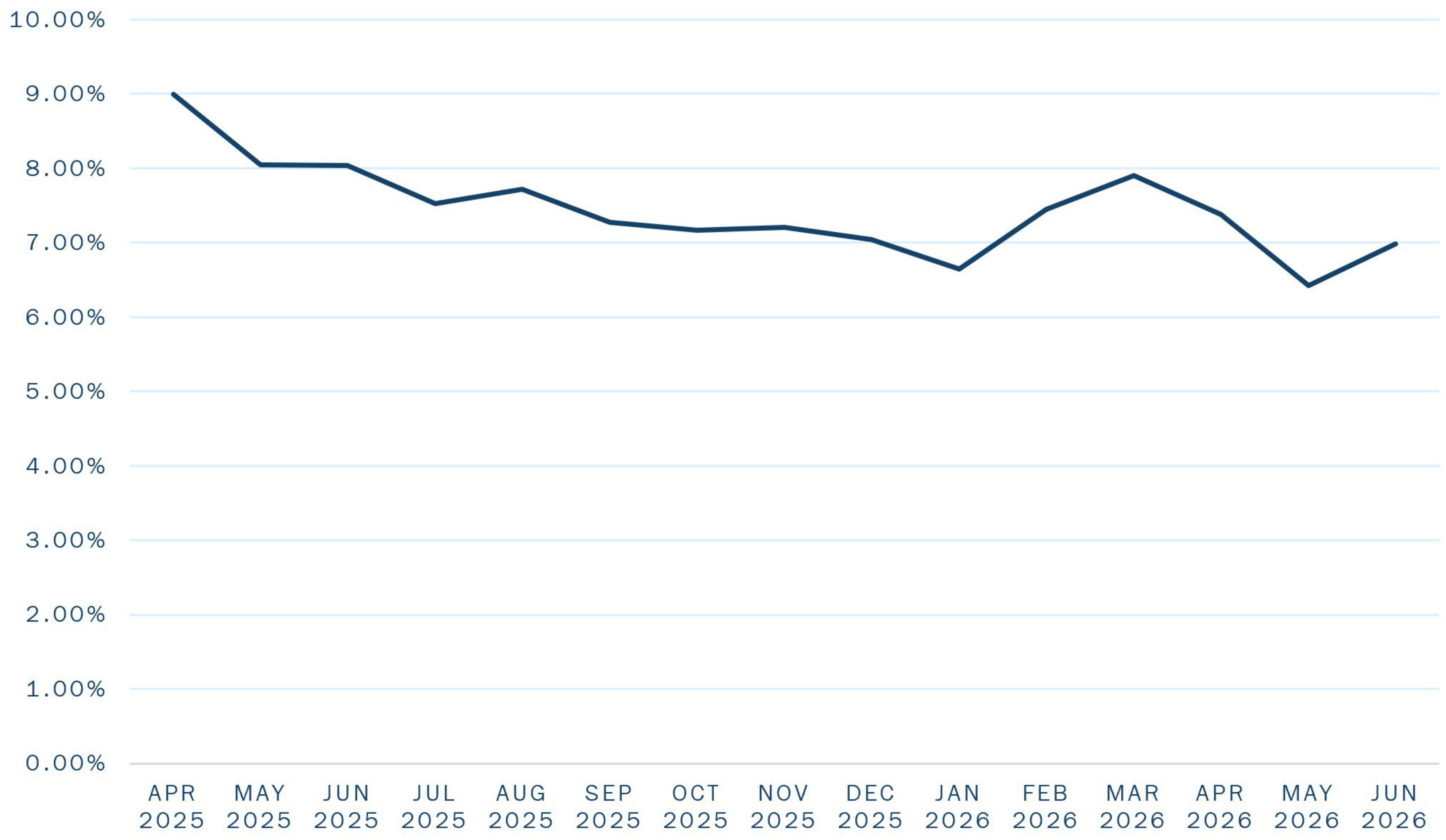
Data Source: Bloomberg Finance L.P.

Market Trends

U.S. Syndicated Leveraged Loans – Yield

Yields on new-issue syndicated institutional first-lien term loans, inclusive of original issue discount, decreased in the second quarter of 2026. The average initial yield of 6.93% in the second quarter of 2026 represented a decrease of 40.2 bps as compared to the average initial yield of 7.33% in the first quarter of 2026 and a decrease of 20.8 bps as compared to the average initial yield of 7.14% in the fourth quarter of 2025. Compared with the second quarter of 2025, average yield dropped 142.8 basis points, from 8.36%.

U.S. Syndicated Leveraged Loans – Yield



Data Source: Leveraged Commentary & Data (LCD)

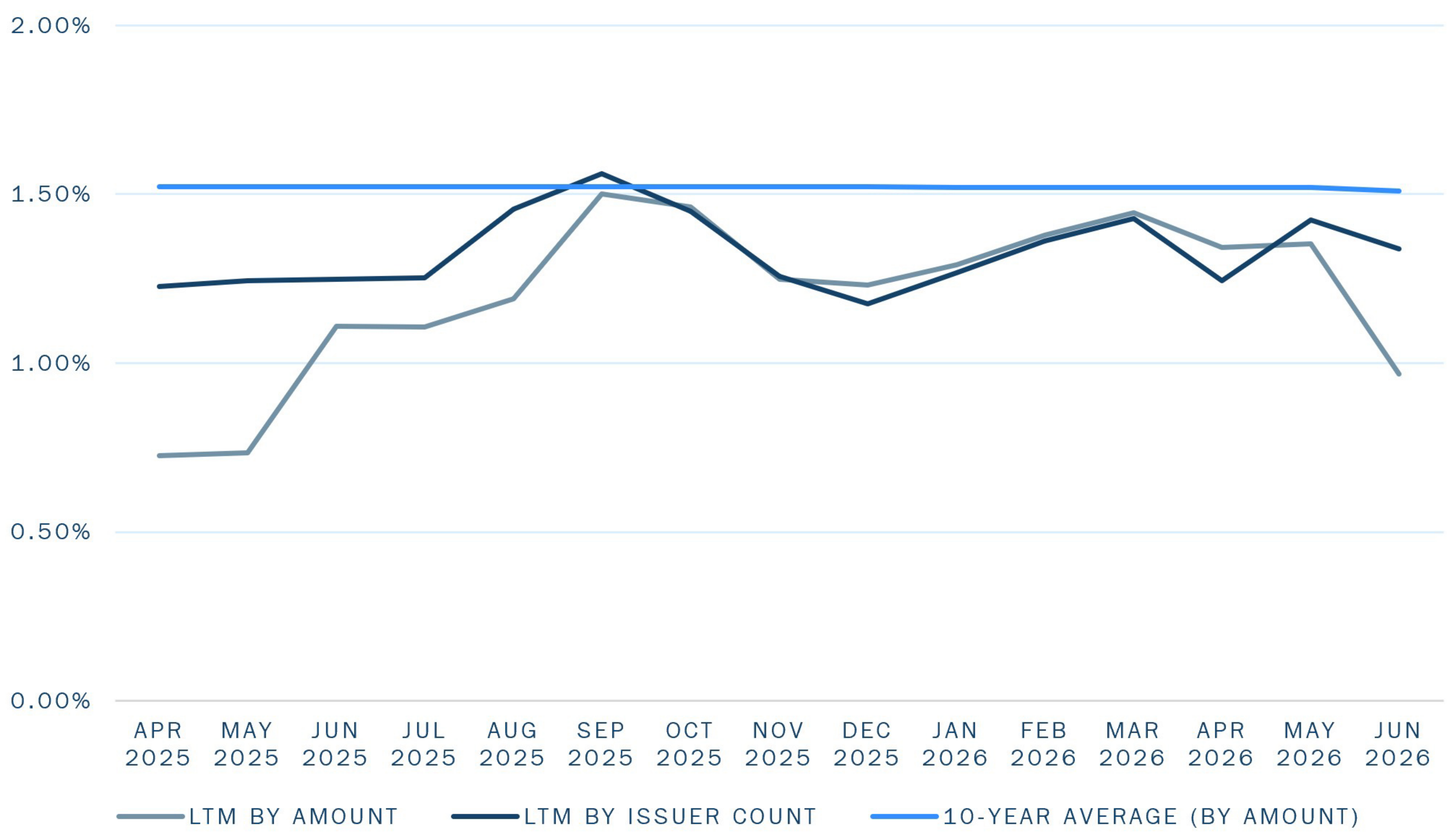
Market Trends

RESTRUCTURING

U.S. Leveraged Loan Default Rate

The default rate for U.S. leveraged loans fell in the second quarter of 2026. The default rate of the Morningstar LSTA U.S. Leveraged Loan Index was 0.97% by amount and 1.34% by issuer count for the LTM period ending June 30, 2026, compared to 1.44% by amount and 1.43% by issuer count for the LTM period ending March 31, 2026. In June, the 10-year average default rate by amount fell to 1.51% from 1.52%.

U.S. Leveraged Loan Default Rate



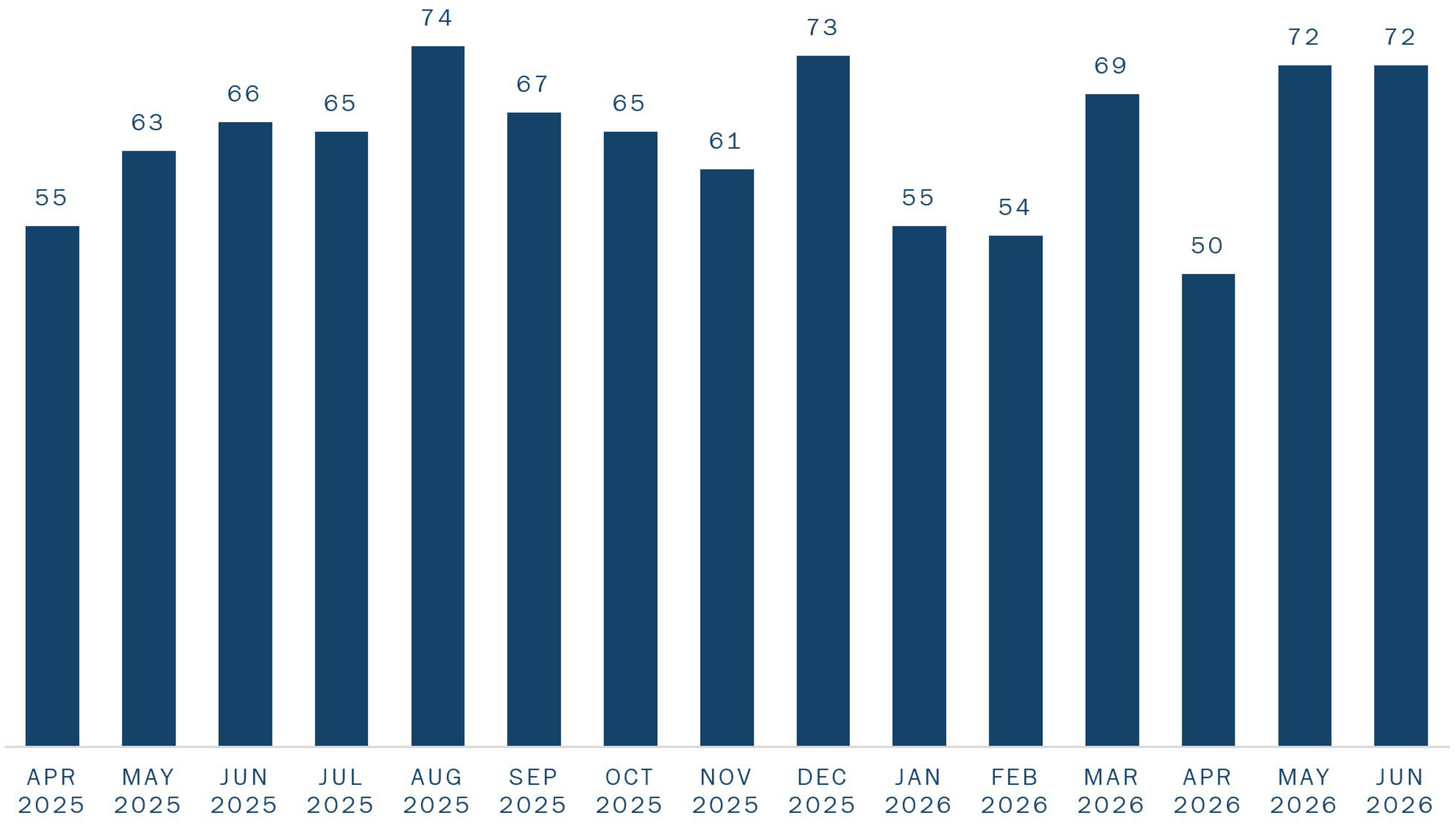
Data Source: PitchBook | Leveraged Commentary & Data (LCD); Morningstar LSTA U.S. Leveraged Loan Index

Market Trends

U.S. Bankruptcy Filings

U.S. bankruptcy filings rose in the second quarter of 2026, with a total of 194 bankruptcy petitions filed by U.S. companies in the second quarter of 2026. Bankruptcy filings for the first half of 2026 reached 372, the highest total for the first half of the year since 2010. The industrials and consumer discretionary sectors continued to set the pace for bankruptcies in 2026, with 50 bankruptcy filings for industrial companies and 35 filings for consumer discretionary companies.

U.S. Bankruptcy Filings by Month



Data Source: S&P Global Market Intelligence (as of July 7, 2026)
Note: Bankruptcy filing data limited to public companies or private companies with public debt where either assets or liabilities at the time of the bankruptcy filing are greater than or equal to $2 million, or private companies where either assets or liabilities at the time of the bankruptcy filing are greater than or equal to $10 million.

Regulatory Updates

SEC Releases Latest Rulemaking Agenda

On July 7, 2026, the U.S. Securities and Exchange Commission ("SEC") published its 2026 Unified Agenda of Regulatory and Deregulatory Actions, providing a current view of the agency's rulemaking program and priorities. The agenda centers on rules for digital assets, steps intended to encourage more companies to conduct initial public offerings and measures intended to increase retail participation in private markets subject to investor safeguards. For digital assets, the Commission may address crypto-asset offerings, trading on alternative trading systems and national securities exchanges and the custody of advisory-client and fund assets, including crypto assets. With respect to public markets, Chairman Paul S. Atkins stated that "the proposed reforms aim to reduce compliance burdens and further facilitate capital formation in our public markets, while maintaining critical investor protections." For investment management, every agenda item is formally categorized as deregulatory, with potential action involving adviser recordkeeping, pay-to-play requirements, electronic delivery and digital assets. The agenda also contemplates simplifying the registered offering process, reassessing the accelerated filer framework, updating shareholder proposal procedures, allowing companies to choose semiannual rather than quarterly reporting, updating proxy solicitation rules and eliminating the climate-related disclosure rules. These initiatives follow the SEC's June publication of a draft strategic plan for 2026–2030 that addresses digital-asset regulation, access to capital and an enforcement program focused on established statutory authority.

SEC Issues Exemptive Order that Expands Availability of Five-Business-Day Tender Offers for Non-Convertible Debt Securities

On June 30, 2026, the Division of Corporation Finance of the SEC granted an exemption from Exchange Act Rules 14e-1(a) and 14e-1(b), permitting a broader scope of tender and exchange offers for non-convertible debt securities to remain open for five business days instead of the 20-business-day period by Rule 14e-1(a). The Order replaces the SEC staff's 2015 no-action position. Among the noteworthy changes from the 2015 no-action position are that issuers may conduct partial offers, accepting tendered securities on a pro rata basis if holders tender more securities than the issuer seeks to purchase, and may pair an abbreviated offer with a consent solicitation if the proposed amendment requires the consent of no more than a simple majority of the outstanding principal amount of the subject securities.

For exchange offers, institutional accredited investors may now participate alongside qualified institutional buyers and non-U.S. persons and issuers are no longer required to provide ineligible holders with a concurrent cash alternative. The Order also removes the former mandatory guaranteed-delivery procedure and Form 8-K filing deadline and permits final pricing to be fixed as late as the offer's expiration time. The five-business-day framework remains unavailable during a default, bankruptcy or specified restructuring process and requires withdrawal rights through the applicable expiration or extension periods.

SEC Proposes Reforms to Registered Offering Framework To Simplify Filing

On May 19, 2026, the SEC proposed amendments intended to broaden access to registered public offerings by expanding eligibility for Form S-3 and making registration and communication benefits available to more listed companies. The proposal would remove the current 12-month reporting-history requirement and $75 million public-float threshold for shelf registration, which the SEC estimates would increase the number of eligible public companies by more than 60%. Issuers generally would still need to be current and timely

Regulatory Updates

in their Exchange Act reports, although a single filing made within seven calendar days after its original due date would not eliminate Form S-3 eligibility, while certain higher-risk issuers and bad actors would remain excluded (*e.g.*, blank check companies, penny stock issuers and some shell companies).

For domestic issuers, the proposal would replace the well-known seasoned issuer framework with new categories for eligible listed issuers ("ELIs") and seasoned eligible listed issuers ("SELIs"), giving both categories access to benefits such as pay-as-you-go registration fees while reserving automatically effective shelf registration for SELIs. The proposed amendments would also modernize Form S-1 by allowing all eligible issuers to incorporate later Exchange Act reports by reference and by removing the Form 10-K filing condition for incorporating earlier filings by reference (if the issuer incorporates a filing containing "Form 10 information"). Listed business development companies and registered closed-end funds that qualify as ELIs would gain broader access to short-form Form N-2, while SELI status would make automatic shelf registration on Form N-2ASR available after 12 months of relevant reporting history. The proposal would further extend federal preemption of state registration requirements to all registered offerings, though at-the-market offerings would remain available only for exchange-listed securities. The public comment period for the registered offering proposal ended on July 27, 2026.

SEC Proposes Major Changes to Public Company Reporting Framework, Including Significant Reduction of Public Company Executive Compensation Disclosures

On May 19, 2026, the SEC proposed amendments that would significantly simplify the public company reporting framework and reduce executive compensation disclosure obligations for many issuers. The proposal would move domestic public companies toward a two-category filer status system, generally distinguishing between large accelerated filers and non-accelerated filers. Under the proposal, many companies that do not meet the new large accelerated filer threshold would be able to use scaled disclosure accommodations that are currently available mainly to smaller reporting companies and emerging growth companies. For executive compensation disclosure, those accommodations would generally allow non-accelerated filers to disclose compensation for three named executive officers instead of five, provide two years rather than three years of summary compensation table information, and omit Compensation Discussion & Analysis, pay ratio, pay-versus-performance disclosure and several detailed compensation tables. Non-accelerated filers also would be exempt from say-on-pay, say-on-frequency and golden parachute advisory vote requirements. The SEC has estimated that roughly 81% of current public companies would fall into the non-accelerated filer category and become eligible for the scaled compensation disclosure framework, while the largest issuers would remain subject to the existing disclosure regime. Comments on the proposal were due July 20, 2026.

SEC Proposes Recission of Climate-Related Disclosures

On May 29, 2026, the SEC proposed to rescind the climate-related disclosure rules it had adopted in March 2024 (the "Climate Disclosure Rules"). These rules would have required public companies to include in registration statements and annual reports detailed disclosures concerning climate-related risks, governance practices, and, in some cases, greenhouse gas (GHG) emissions and related financial-statement impacts. However, the Climate Disclosure Rules never became effective as they were temporarily stayed by the Fifth Circuit in March 2024

Regulatory Updates

shortly after adoption, followed by a voluntary judicial stay by the SEC in April 2024 pending completion of consolidated litigation in the Eighth Circuit. The SEC subsequently voted to end its judicial defense of the Climate Disclosure Rules in March 2025, and the Eighth Circuit held the consolidated challenges in abeyance while the SEC reconsidered the rules through notice-and-comment rulemaking or renewed its defense of them. The Commission's current proposal would withdraw the climate disclosure amendments in full, including the related changes to Regulation S-K and Regulation S-X. If finalized, the rescission would eliminate the SEC's 2024 Climate Disclosure Rules, but companies would still need to consider climate-related disclosure obligations under existing materiality-based SEC rules and under state, foreign or other non-SEC frameworks. Comments on the proposal were due August 3, 2026.

Chairman Atkins Calls for Loosening IPO Communication Rules

In May 2026, SEC Chairman Paul Atkins signaled that the Commission is considering changes intended to make the IPO process more attractive to companies, including potential reforms to rules that limit communications between IPO candidates and investors. In his speech at Stanford University, Chairman Atkins highlighted the Securities Act "gun-jumping" rules that restrict certain communications by companies during the IPO process as a recurring source of complexity for companies and advisers and suggested a need for updating the rules, which have not been updated in 20 years. In addition to potentially updating gun-jumping rules, Chairman Atkins also encouraged thinking on alternative methods of taking companies public such as direct listings and SPAC transactions. Atkins asked SEC staff to develop recommendations and invited public input on how the agency should update IPO-related communication rules. Comments on IPO modernization were requested by July 27, 2026.

SEC Issues Request for Comment on Novel ETFs

On June 30, 2026, the SEC issued a request for public comment on exchange-traded funds ("ETFs") that invest in innovative asset classes or employ novel investment strategies. The agency presented the request as an effort to balance continued ETF market innovation with investor protection and market integrity. The SEC identified "Novel ETFs" as potentially including products involving crypto assets, commodity-focused instruments, single-stock strategies, heightened leverage, blockchain-enabled opportunities, private assets, event contracts or combinations of those exposures. The request asks for comment on whether certain novel ETFs should be treated as investment companies, how novel ETFs should be regulated, and how the ETF registration process should function effectively for these products. It also raises questions about possible amendments to Rule 6c-11, including whether the rule should impose minimum securities-holdings or diversification requirements or exclude certain asset classes from reliance on the rule. While the request does not propose a specific rule, it is expected to shape how the SEC and its staff approach future guidance, rulemaking and registration reviews for ETF sponsors.

Grandfathering Cutoff Under the European Union's Sixth Capital Requirements Directive (CRD VI) Expires

On July 11, 2026, a grandfathering exception applicable to non-EU banks under Article 21c of the European Union's sixth Capital Requirements Directive (Directive (EU) 2024/1619, "CRD VI" or the "Directive") ended. On May 31, 2024, the

Regulatory Updates

European Parliament and the Council of the European Union passed CRD VI, which sought to harmonize the banking supervisory frameworks of the member states of the European Union and, significantly, amended the then-existing directive to add a new Article 21c. Under Article 21c, all member states must implement legislation, which must go into effect by January 11, 2027, to require non-EU banks to establish a branch in such member state in order to perform core banking services in such member state, including taking deposits, lending and issuing guarantees and commitments. In order to "preserve clients' acquired rights under existing contracts," non-EU banks that entered into contracts to provide the aforementioned banking services before July 11, 2026 are not required to comply with the branch establishment requirements and can continue to perform under such contracts, but cannot amend such contracts or refinance the loans under such contracts unless they comply with the branch establishment requirements.

There are also several exceptions to the local branch requirement, including: (1) so-called "reverse solicitation," whereby an EU-based client approaches the non-EU bank "at its own exclusive initiative"; (2) services provided to a credit institution; and (3) services provided by non-EU banks to EU-based entities within the same corporate group as that of the non-EU bank. On August 4, 2026, the LSTA published guidance on the reverse solicitation exception, including model reverse solicitation reliance language for use in engagement and commitment letters, authorization letters and marketing materials. The LSTA cautions that while the model language helps document reliance on the exception, its inclusion alone does not satisfy the exemption requirements, and parties should consult local counsel in the relevant EU jurisdiction and review internal policies before relying on it.

Banks affected by CRD VI should review existing and contemplated activity directed at the EU that falls into the "core banking services" categories and consider modifications in light of the new rules. Such possible modifications might include: (1) evaluating whether existing EU-licensed branches of an affected bank should sign at the initial implementation of a credit facility or join it later; (2) tranching facilities to bifurcate lenders and borrowers based on their EU status; and (3) for non-EU banks that want to provide commitments to both non-EU and EU borrowers under multi-borrower revolving facilities, establishing an EU branch and making and holding committed capital at such branch for the EU borrower, in addition to committed capital at its non-EU branch for the non-EU borrowers (unless an exemption applies). Finally, banks that entered into contracts in reliance on the grandfathering exception should be mindful of go-forward modifications to such contracts that may cause the exception to fall away.

FDIC Proposes Leaner Resolution Submission Regime

In the years since the 2008 Global Financial Crisis and with renewed interest following the 2023 bank failures of Silicon Valley Bank, Signature Bank and First Republic Bank, the Federal Deposit Insurance Corporation ("FDIC") has implemented several resolution-strategy requirements for insured depository institutions ("IDIs"). Under the current resolution regime, IDIs with at least $100 billion in total assets must file comprehensive resolution plans that support the FDIC's ability to resolve an IDI if it fails and require, among other things, the adoption of a hypothetical failure scenario, valuation analyses and resolution strategies. IDIs with at least $50 billion but less than $100 billion are currently required to file more limited "informational filings."

Regulatory Updates

On June 30, 2026, the FDIC proposed the latest set of amendments to its resolution-submission rule. The proposal has two main objectives: (1) to raise the rule's coverage threshold for IDIs from $50 billion to $100 billion in total assets and index the threshold to inflation and (2) to recalibrate the focus of the "resolution plans"—renamed "resolution submissions" under the proposal—to be the content most useful to the FDIC in preparing to execute a resolution. Some of the proposed changes to resolution submission content include the elimination of resolution-related hypothetical analyses and the addition of content requirements to help the FDIC understand the covered IDI's organizational structure, such as an organizational structure chart and information about non-controlling interests in joint ventures and other entities. The proposal seeks to maintain, subject to revisions, information requirements related to financial information, key personnel and information systems. Furthermore, the proposal would also place all covered institutions on a three-year submission cycle, replace interim supplements with a notice-of-extraordinary-event process, eliminate the public section of submissions and eliminate board-approval requirements for submissions to the FDIC, among other changes.

FDIC Proposes Changes to Deposit Insurance Assessment Regulations

In parallel with the proposed amendments to the resolution submission rules, the FDIC on June 30, 2026 also published in the *Federal Register* a proposed rule to amend its regulations for calculating and charging deposit insurance amounts owed by insured depository institutions. The FDIC currently uses different methodologies for calculating the applicable deposit insurance assessment rate for an institution based on whether it is "small" (IDIs not meeting the definition of "large"), "large" (IDIs with assets of $10 billion or more for four consecutive quarters but that is not considered "highly complex") or "highly complex" (an institution that either (a) has at least $50 billion in total assets and is controlled by a parent company with at least $500 billion in total assets or (b) is a processing bank or trust company). The proposal would raise the asset-size threshold that separates "small" from "large" institutions for deposit insurance assessment purposes from $10 billion to $30 billion and reindex the threshold to inflation every four years. The proposal would also provide a downward adjustment of the initial base assessment rate schedules of two basis points for "small" institutions and one basis point for "large" and "highly complex" institutions. In addition, for "large" and "highly complex" institutions, the proposal would create a voluntary "resolution readiness adjustment" of 0.5 basis points for passing virtual data room testing and of 0.5 basis points for providing prescribed data access to aid the FDIC in the event of a receivership scenario.

FinCEN Proposes To Reform AML/CFT Program Requirements

On April 10, 2026, the Financial Crimes Enforcement Network ("FinCEN") published in the *Federal Register* a notice of proposed rulemaking to modernize financial institution program requirements for anti-money laundering ("AML") and countering the financing of terrorism ("CFT") under the Bank Secrecy Act (the "BSA"). The existing regime requires "financial institutions" —a broad category that includes, among others, banks, broker-dealers, money services businesses, mutual funds and insurance companies—to satisfy certain "minimum standards," including maintaining (1) internal policies, procedures, and controls; (2) a designated compliance officer; (3) an ongoing employee training program; and (4) an independent audit function, together with other requirements that vary by institution type. The proposal would recast these requirements around program effectiveness, expressly defining

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what an effective AML/CFT program must include and clarifying the requirements for compliance. It aims to promote risk-based programs that ensure "financial institutions direct more attention and resources toward higher-risk customers and activities, consistent with the risk profile of the financial institution," thereby improving outcomes for law enforcement and national security agencies. The proposal would also give FinCEN, already the BSA's administrator, a greater role in reviewing and providing feedback on proposed supervisory actions of other federal agencies (including the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation and the National Credit Union Administration) before they are taken, promoting more consistent supervision and enforcement across agencies. Consistent with this effort, the OCC, FDIC and NCUA issued a joint notice of proposed rulemaking on April 10, 2026 to align their anti-money laundering and countering the financing of terrorism program rules with the FinCEN proposal, and the Board of Governors of the Federal Reserve System issued a related proposed rulemaking on July 9, 2026 to similarly align its rules with the FinCEN proposal.

Restructuring Updates

Serta Simmons Bedding, LLC v. AG Centre Street Partnership (In re Serta Simmons Bedding, LLC), No. 23-90020, Adv. No. 23-09001, 2026 WL 1968535 (Bankr. S.D. Tex. July 7, 2026)

On July 20, 2026, Judge Lopez of the United States Bankruptcy Court for the Southern District of Texas awarded the term lenders excluded from Serta Simmons Bedding, LLC's ("Serta") June 2020 uptier transaction (the "Uptier") $104.62 million in damages plus 9% prejudgment interest.[1] After a trial on remand from the Court of Appeals for the Fifth Circuit,[2] Judge Lopez found that the ad hoc group of lenders participating in the Uptier (the "Participating Lenders") violated a "sacred right" requiring pro rata payment sharing in Serta's credit agreement (the "Credit Agreement") by exchanging their existing term loans for new priming debt.[3] The decision confirms that cashless debt exchanges can constitute payments and therefore may be subject to pro rata sharing requirements and will likely shape negotiations of such provisions going forward.

In the Uptier, the Participating Lenders used their majority voting status to amend the Credit Agreement to allow Serta to raise new money through priming term loans and to allow the Participating Lenders to exchange their existing loans for priming term loans. These amendments did not modify any "sacred rights" provisions, which could not be amended without the consent of all affected lenders, including the pro rata payment sharing provision requiring that any lender that obtained more than its ratable share of "payment . . . in respect of any principal of or interest on its Loans" purchase participations from other lenders to share the benefit of the payment ratably (the "Pro Rata Sharing Provision").[4] Subsequently, Serta exchanged loans in a second tranche of priming debt for the Participating Lenders' existing term loans at a discount to par (the "Debt Exchange"). The lenders not part of the Participating Lenders (the "Excluded Lenders") were subordinated to the new money and exchange superpriority debt.[5]

After Serta filed for Chapter 11 in the Bankruptcy Court for the Southern District of Texas, the Excluded Lenders brought claims against the Participating Lenders alleging that the Debt Exchange violated the Pro Rata Sharing Provision.[6] The bankruptcy court initially ruled in favor of the Participating Lenders, finding that the Debt Exchange was permitted by the "open market purchase" exception to the Pro Rata Sharing Provision, but its decision was reversed by the Fifth Circuit in December 2024.[7]

On remand from the Fifth Circuit, Judge Lopez found that the Participating Lenders breached the Credit Agreement, because the Debt Exchange was subject to the Pro Rata Sharing Provision and the Participating Lenders did not purchase participations from the Excluded Lenders. Interpreting "unambiguous" text of the Credit Agreement, Judge Lopez concluded that the Debt Exchange constituted a "payment . . . in respect of principal of or interest on" the Participating Lenders' existing term loans, triggering the Pro Rata Sharing Provision.[8] Additionally, the Excluded Lenders were not barred from bringing suit against the Participating Lenders despite submitting a competing liability management transaction proposal and offering $30 million to Serta to abandon the Uptier.[9]

To calculate damages, Judge Lopez compared the value that the Excluded Lenders would have received if the Participating Lenders had properly purchased loan participations from the Excluded Lenders with the fair market value of those participations on the closing date of the Uptier, which was June 22, 2020. The court then applied 9% prejudgment interest calculated from the closing date, the date of breach, as required by New York law.[10]

Restructuring Updates

In light of Judge Lopez's ruling in *Serta*, borrowers and lenders seeking to engage in an uptier transaction will need to carefully structure any exchange of existing debt to avoid running afoul of pro rata sharing protections. *Serta* is also instructive with respect to how courts may assess damages in litigation challenging liability management transactions.

In re Del Monte Foods Corp. II, Inc., No. 25-16984, Adv. No. 26-01018 (MBK), 2026 WL 1326956 (Bankr. D.N.J. May 11, 2026)

On May 11, 2026, Judge Kaplan of the Bankruptcy Court for the District of New Jersey held that the roll-up of pre-petition loans into superpriority debtor-in-possession loans (the "Roll-Up Loans") did not violate the pro rata sharing provision of Del Monte's pre-petition credit agreement (the "Credit Agreement", and such provision, the "Pro Rata Sharing Provision"), because the roll-up did not constitute a "payment or reduction" of the prepetition loans. However, the court did leave open the possibility that any *future* payments on the Roll-Up Loans may be subject to the Pro Rata Sharing Provision.[11] Thus, Del Monte's debtor-in-possession ("DIP") lenders may ultimately be required to share their recoveries with other pre-petition lenders who did not participate in the DIP financing.

To fund Del Monte's operations during its Chapter 11 process, a subset of pre-petition term lenders (the "DIP Lenders") provided Del Monte with a DIP facility that included an extension of new money loans and a "roll-up" of their pre-petition debt into new superpriority DIP debt (the "Roll-Up").[12] Non-participating term lenders (the "Minority Lenders") subsequently sued the DIP Lenders for breach of contract and breach of the implied covenant of good faith and fair dealing under the Credit Agreement. The suit alleged that, because the Roll-Up was subject to the Pro Rata Sharing Provision in the Credit Agreement, it violated the Minority Lenders' "sacred right" to ratable treatment in loan repayment.[13] The Minority Lenders also sought a declaration that any future payments on the Roll-Up Loans are subject to the Pro Rata Sharing Provision requirement that lenders receiving more than their pro rata share of a "payment or reduction" in principal or interest purchase participations from other lenders in order to share recoveries ratably.[14]

Judge Kaplan dismissed the breach of contract claim. Reaching a conclusion that appears at odds with Judge Lopez's decision in *Serta*, the court determined that the Roll-Up was neither a "payment" nor a "reduction" under the Pro Rata Sharing Provision. Interpreting the text of the Credit Agreement, the court concluded that the parties "understood 'payment' to require an exchange of dollars or cash equivalents" and noted that the Roll-Up "did not discharge a single dollar" of debt.[15] Judge Kaplan also noted a concern that forcing the DIP Lenders to share the benefit of the RollUp prior to any repayment under the DIP loans would be unfair because roll-ups are intended to compensate, in part, DIP lenders for the increased risks of nonpayment when extending credit to distressed entities.[16]

Judge Kaplan also dismissed (without prejudice) the breach of the implied covenant of good faith and fair dealing claim. In so doing, the court seemed to give significant weight to the fact that the Minority Lenders were given the right to participate in the DIP facility on equal terms.[17]

However, Judge Kaplan declined to dismiss the Minority Lenders' declaratory judgment claim that payments on the Roll-Up Loans are subject to the Pro Rata Sharing Provision, finding that one could "plausibly view the [pre-petition loans] as having been merged into the Roll-Up Loans."[18] Therefore, eventual payment on these loans may constitute a "payment" for purposes of the Pro Rata Sharing Provision.

The decision is currently on appeal to the District Court for the District of New Jersey.[19]

Citations

1. The court initially awarded damages of $261.13 million plus 9% prejudgment interest, subject to adjustments for settlements between some Excluded Lenders and the Participating Lenders. *Serta Simmons Bedding, LLC v. AG Centre Street Partnership (In re Serta Simmons Bedding, LLC), No. 23 90020*, Adv. No. 23-09001, 2026 WL 1968535, at *33 (Bankr. S.D. Tex. July 7, 2026) [hereinafter, *Serta*]. After adjustments, the total damages awarded were $161.53 million, or $104.62 million in damages plus $56.91 million in prejudgment interest (9% per annum). Judgment, *Serta Simmons Bedding, LLC v. AG Centre Street Partnership (In re Serta Simmons Bedding, LLC)*, No. 23-90020, Adv. No. 23-09001 (Bankr. S.D. Tex. July 20, 2026), Dkt. No. 752.
2. *See generally In re Serta Simmons Bedding, L.L.C.*, 125 F.4th 555 (5th Cir. 2024), *as revised* (Jan. 21, 2025), as revised (Feb. 14, 2025).
3. *Serta*, 2026 WL 1968535, at *18.
4. *Id.* at *1, *5.
5. *Id.* at *5-6.
6. *Id.* at *7.
7. *Id.* at *8-9.
8. *Id.* at *13-18.
9. *Id.* at *23.
10. *Id.* at *30-33.
11. *In re Del Monte Foods Corp. II, Inc.*, No. 25-16984, Adv. No. 26-01018 (MBK), 2026 WL 1326956, at *4, *10 (Bankr. D.N.J. May 11, 2026) [hereinafter, *Del Monte*].
12. *Id.* at *5.
13. *Id.* at *4.
14. *Id.* at *2, *9.
15. *Id.* at *6.
16. *See id.* at *7.
17. *Id.* at *9.
18. *Id.* at *10.
19. Notice of Appeal, *In re Del Monte Foods Corp. II, Inc.*, No. 25-16984, Adv. No. 26-01018 (MBK) (D.N.J. May 28, 2026), Dkt. No. 1.

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