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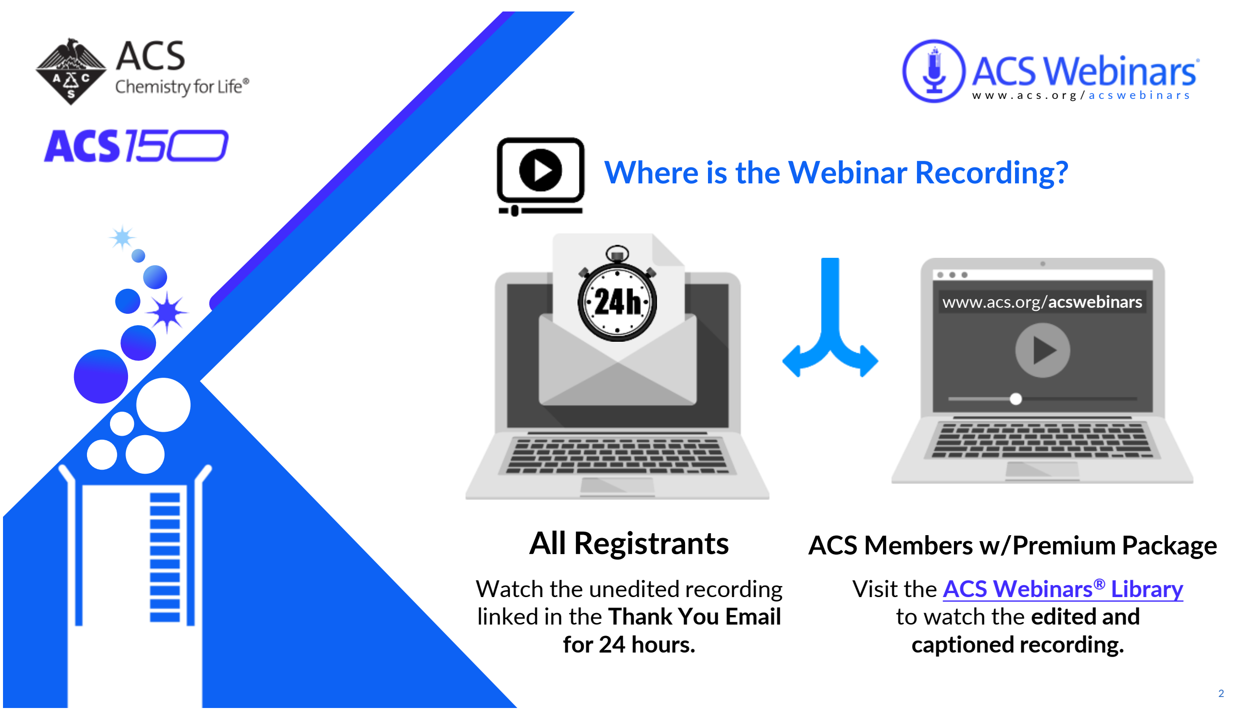
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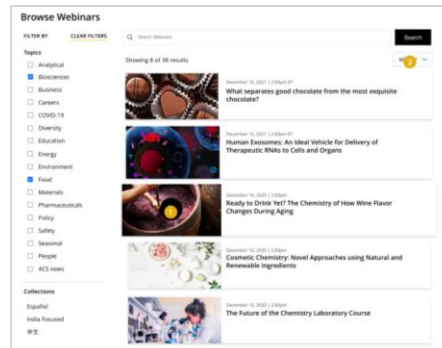

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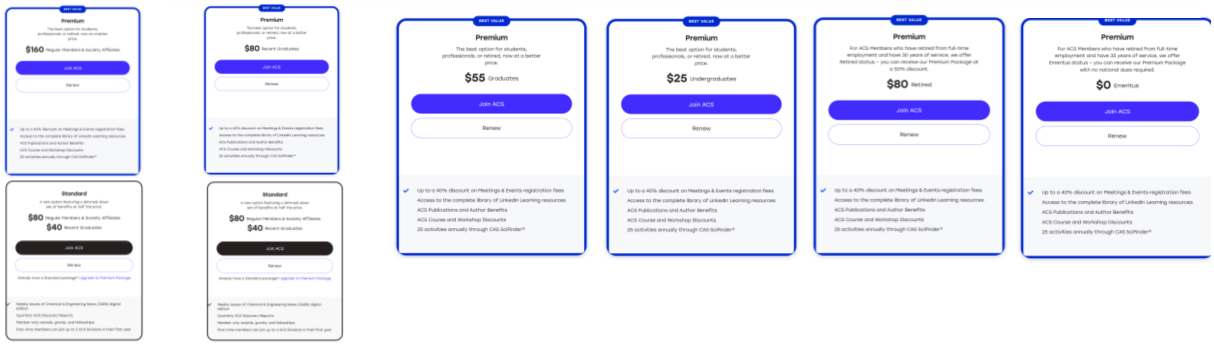

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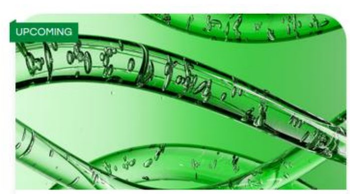

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Mini-Chemical MBA: Equity Financing, SAFEs, and Convertible Notes

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Mini-Chemical MBA: Equity Financings, SAFEs and Convertible Notes

Presented by

Joseph Flynn, Partner, Life Sciences

Samuel Beavers, Partner, Life Sciences

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Stages of Capital Raising

- **Pre-Seed**
  - "Proof of Concept"
  - Friends and Family, accelerators, incubation
- **Seed**
  - Execute concept, pre-revenue and/or pre-profitability
  - Angel investors, early-stage venture capital firms, some strategic investors
- **Series A**
  - Typically approaching or past the threshold of profitability (or at least meaningful monetization), but this varies based on geography/industry (e.g. biotech will have no revenue, conducting clinical trials)
  - Family offices, early-stage venture capital firms, strategic investors
- **Series B, C, etc.…**
  - "Adding fuel to the fire"
  - Venture capital firms, private equity firms, strategic investors

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Instruments for Early-Stage Financings

Convertible Seed/Pre-Seed Round (typically $3M or less)

- SAFEs (Simple Agreement for Future Equity) – most common in current market
- Convertible notes (also used in later stages to bridge between financings)
- Advantages from founders' perspective of note/SAFE structure: simple and lower legal cost, avoid putting an official valuation on company, give holders less economic and control rights

Priced Seed Round (typically $2-5M)

- Short form – see www.seriesseed.com vs. Traditional NVCA-style financing documents
- Series Seed forms faster, but NVCA better for setting precedent and preserving investors' terms in subsequent rounds; Seriesseed.com forms rarely used today
- Advantages from investor perspective – clarity on valuation and ownership stake; more control rights and price protection

Series A and beyond Preferred Stock Financings ($10M+)

- Series A typically done using traditional NVCA-style financing documents
- Subsequent rounds typically based on updates to prior Series A documents
- Important to think about precedent, both in considering prior investors' terms and setting precedent for future rounds

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Convertible Notes

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- **A loan by an investor that converts into equity upon a subsequent equity financing meeting certain conditions, with the following terms:**
  - Debt features include:
    - Interest rate – typically 3-6% (depending on current applicable federal rates)
    - Term/Maturity date – typically 18-24 months
    - Events of default – failure to pay, bankruptcy, etc.
  - Conversion events: (i) qualified financing, (ii) company acquisition or (iii) maturity date
  - Automatic or voluntary conversion feature
  - Conversion price: typically, the lower of (a) an agreed **valuation cap** of the company at the time of conversion, or (b) a **discount (**typically 10-20%) off price per share paid by new investors in the qualifying equity financing
  - Change of control premium – repayment of principal and interest plus a premium, typically 0.5-2x principal

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Convertible Notes *(continued)*

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- **Less Common Terms**
  - Security interest/Most favored nation/Preemptive rights
- **Prevalence**
  - West Coast: Second choice after SAFE unless Company typically.
  - East Coast: Historically more common, easier to document than a "priced" round, but now SAFEs generally the default
- **Downsides** to using convertible notes (as compared to SAFEs)
  - Required to be repaid at some point if not converted, and the company may not have the funds to pay off the notes
  - Incurs interest (requiring tax forms to investors if held for more than a year) and carried as debt on balance sheet
  - Create an extra "liquidation preference" above all equity, unless converted into a shadow preferred stock or discounted common stock

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SAFE: Simple Agreement for Future Equity

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- **Contractual agreement to issue equity in a later financing with company-favorable terms:**
  - No specific rights promised to investors upon conversion (but may have MFN in the SAFE)
  - No interest accrual
  - No maturity date, so no obligation to repay
  - Converts into shadow preferred stock to avoid extra return to the investor over what the investor paid into the company
  - No minimum raise amount required for a "qualified financing" that will trigger conversion, though this may be negotiated
- **Three public versions (Y Combinator):**
  - Valuation cap, no discount
  - Discount, no valuation cap
  - MFN only, no valuation cap, no discount
- **Prevalence**
  - In West Coast deals, the most common, default form to raise initial capital for years. Has more recently become the default in East Coast deals. Founders prefer SAFEs because of ease of execution and low legal costs

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Side Letters

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- **Side Letters in Convertible Security Financings (applies to both SAFEs and Convertible Note offerings)**
  - Management rights
  - Major investor rights
    - Information, inspection and pro rata rights
    - Guarantee to be a "Major Investor" and keep rights
- Most favored nation provision
- Preemptive Rights
- Board observer
- Protective provisions (unusual)
- Investor specific matters — publicity, transfer restrictions

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Preferred Stock Financing

Key Features

- Issuance of Preferred Stock at a fixed price per share based on negotiated and agreed upon valuation
- More extensive documentation and due diligence
- Higher legal costs, longer deal timeline (usually 30-60 days)

Five Primary Financing Documents

- Restated Certificate of Incorporation (aka Charter)
- Preferred Stock Purchase Agreement
- Voting Agreement
- Investors' Rights Agreement
- ROFR & Co-Sale Agreement

Ancillary Materials

- Pro Forma Model – to determine price per share
- Management Rights Letters (required for VCOC purposes)
- Side Letters – containing special rights for specific investors
- Board and Stockholder Consents
- Third-Party Consents/Waivers
- Legal Opinion/Management Certificate
- Closing Certificates (Officer's and Secretary's)

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Preferred Stock Financing – Key Economic Terms (Term Sheet)

- **Price and valuation – negotiated between lead investor and company**
  - Typical methodologies are used, but in early stages it's often just a function of investor solving for ownership %
  - Typically calculated on pre-money basis, but can be calculated on post-money basis as well
- **Round size – amount of money being raised in round.**
- **Option pool increase – many investors have rule of thumb depending on stage of company. If negotiated down, should be backed up by hiring plan.**
  - Increase is almost always done in pre-money capitalization when calculating the price per share of new equity
- **Conversion of outstanding notes or SAFEs – if there are convertible securities converting in the round consider:**
  - Do the shares issued upon conversion go into the pre or post-money capitalization in price calculations? Investors will want to convert in the pre and that is the typical arrangement.

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Preferred Stock Financing – Other Economic Terms

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- **Liquidation preference (*Charter*)**
  - Liquidation multiple – 1x is market, sometimes up to 3x for distressed companies
  - Seniority – pari passu typical, but sometimes senior
  - Participation – non-participating is market. Sometimes participate, perhaps with cap
- **Dividends (*Charter*) – Non-cumulative is market, sometimes 6-8% return**
- **Anti-dilution protection (*Charter*)**
  - Almost always broad-based weighted average, but later stage or pre-IPO might include a ratchet
- **Pre-emptive rights (*IRA*)**
  - Usually only for major investors. Typically, waivable by a majority of MIs on behalf of all
  - Overallotment/"Gobble-up" – investor favorable
  - Minority/Springing pro rata rights if waiving investors participate in the round
  - Also referred to as participation rights or ROFO rights
- **Redemption rights (rare) (*Charter*)**
  - Allows investors to force the Company to repurchase their shares after a certain amount of time (5-10 years typically)

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Preferred Stock Financing – Key Control Terms (Investors)

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- **Investors' Concerns**
  - Maintaining control over future rounds and director of company
  - Protecting disparate value propositions and outcomes
  - Preventing conversion to common stock and losing special rights
- **Preferred Stockholder Rights – control through blocking rights:**
  - Protective provisions (incl. block on future financings and M&A) (*Charter*)
    - Some blocks better implemented at board level (e.g., incurrence of debt over a specified level)
    - Occasionally founders with leverage may try to eliminate or limit blocks on financings (eg no block on pari passu rounds) and/or acquisitions (eq no block if returns more than 1-2x investment amount)
- Anti-dilution protection waiver (*Charter*)
- Auto-conversion to common stock (*Charter*) – typically upon IPO at 1x-5x OIP or vote of Preferred
- Waiver of liquidation preference (*Charter*)
- Amendments to financing documents - effectively a block on future financings (*IRA, Voting Agreement, ROFR/Co-Sale Agreement*)
- Drag-along (*Voting Agreement*) – typically with vote of (i) majority of Common, (ii) majority of Preferred as a class, and (iii) the Board approval can force a sale of the company (affirmative not a blocking right)

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Preferred Stock Financing – Key Control Terms (Investors)

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Preferred Voting

- **Class or series?**
  - Some deals feature multiple sets of protective provisions, with all Preferred Stock voting on some actions and certain series of Preferred being entitled to veto the same or other actions.
  - Company prefers class voting to minimize individual investors or cohorts having separate blocks.
  - Series vote not always better for *all* investors. Interests among series can diverge as valuation divides increase (e.g., conversion, waiver of liq pref, A/D waiver).
  - Series vote on limited actions including disparate treatment or authorizing shares of a particular series is typical.
- **Voting Threshold**
  - Important to determine appropriate percentage voting thresholds (e.g., majority, 60%, 2/3 of all Preferred Stock). To determine appropriate thresholds, important to analyze the post-financing pro forma cap table. At term sheet stage, where ownership percentages among the investors have not yet been determined, these threshold amounts can be bracketed in draft documents to flag the issue as open until the capitalization is finally determined.

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Preferred Stock Financing – Key Control Terms (Board)

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Board structure (*Charter and Voting Agreement*)

- **Who designates directors?**
  - Common Directors – designated by majority of Common? Key Holders? Founders individually? CEO seat?
  - Preferred Directors – typically in Series A and subsequent rounds (and sometimes Seed) lead investor gets one director
  - Independent – how elected? Majority of all shares, other directors? Who nominates for approval?
- **Who controls majority of seats?**
  - Typical for founders to lose control at Series B, if not Series A.
  - Founder-controlled boards may be falling into disfavor (post-Uber).
  - Board observers? Non-voting but can still wield influence. Typically for large investors but not the lead. Some investors take a board seat and an observer seat.

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Preferred Stock Financing – Key Control Terms (Founders/Common Stock)

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- **Common/Founder Control Rights**
  - **DGCL 242(b)** – Typically, the Delaware General Corporate Law (DGCL) only requires approval of holders of a majority of capital stock, but see Section 242(b) of the DGCL. Make sure Charter waives this right.
  - **Service Provider Requirements** – for actions requiring a separate Common vote, consider limiting the vote to only those who are then currently providing services to the Company to avoid disgruntled ex-founders/employees having control over important actions. E.g., amending financing documents which is effectively a block on a new financing, or triggering the drag-along. Can also apply to Common vote to designate directors.
  - **Dual-class stock (high vote/low vote)** – used by several established private (Airbnb, BuzzFeed) and public (Facebook, DropBox, Google) – can be implemented in connection with IPO or earlier
    - Advantages
      - Voting power (and thus control of the company) is concentrated in the hands of pre-existing (long-term) stockholders, so increased certainty re approvals. Post-IPO, powerful defense against hostile takeovers, so management can focus on long-term
    - Disadvantages
      - Perceived to entrench existing management and board (i.e., Uber abandoned its dual-class structure)
      - Disfavored by institutional investors (CalPers) and proxy advisory firms (ISS)

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Preferred Stock Financings – Other Important Terms

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- **Registration Rights (*IRA*)**
  - Right to force the Company to do an IPO or follow-on offering
- **Information Rights (*IRA/Management Rights Letter*)**
  - Basic rights to financial information, typically quarterly and annual financial statements, sometimes monthly
- **Secondary ROFR and Co-Sale Rights (*ROFR/Co-Sale*)**
  - If key holders sell shares in secondary sales, the company first and then investors have a right to buy on the same terms as the proposed sale. This is a "right of first refusal" or "ROFR"
  - If ROFR is not exercised, investors have the right to "tag-along" with the selling key holder and sell their shares as well (the "Co-Sale")
- **Transfer Restrictions on secondary sales (*Bylaws*)**
  - Outright block on transfers unless approved by the Board (subject to customary exceptions for estate planning, etc.).
  - Good for common stock to control cap table, but rarely apply to preferred
- **Side Letters – contain special rights for certain investors**
  - Can include problematic terms. E.g., rights of first offer, refusal, or notice of M&A that can complicate a sale and impact exit value

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Initial Capital Infusion – Structure Summary

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	SAFE	Convertible Note	Priced Equity
Valuation •Founder Stock •Dilution •Price Certainty	Deferred	Deferred	Established
Investor Governance Rights	Minimal	Minimal	More Extensive
Creditor/Debtor Relationship	No	Yes	No
Phantom Liquidation Preference	No	Often Yes	No
Transaction Fees	Lower	Depends	Higher

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The New Startup Financing Environment

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- VC Seed Programs
  - Invest small amounts into early-stage companies
  - Typically, convertible instruments or series seed preferred stock

- Startup Incubators, Accelerators, Studios
  - Start-up program, a lot of variability in terms:
    - Business support/coaching/workspace/access to investors
    - Initial funding provided (common stock/SAFE/convertible note)
    - Companies can be required to give up equity for participation
- Examples: Y Combinator, AngelPad, 500 Startups, TechStars, StartX

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Audience Poll Question

Which statement accurately captures the state of the HealthTech or Biopharma markets heading into 2026?

- A) Biopharma seed activity has reached a ten-year high as investors move away from de-risked assets
- B) HealthTech median pre-money valuations have hit a record high of ~$38.5M, while U.S. Biopharma exits are driven primarily by M&A as large pharma seeks to offset "patent cliffs
- C) The U.S. IPO window has completely replaced M&A as the primary liquidity path for Biopharma companies
- D) AI startups now capture less than 10% of U.S. VC deal value as the "hype cycle" ends

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Market Update

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- Earlier stage funds/rounds remain active
- More profound impact on later stage rounds / M&A / IPO market
- In down market, investors will often press harder on certain items, with focus on protecting for downside scenario as well as upside scenario:
  - Diligence
  - Valuation
  - Governance
- Many companies are pursuing bridge financing in the form of a SAFE or convertible note or extension of prior round, with goal of completing priced equity round later in 2026 upon improved market conditions.
- Heightened emphasis on corporate hygiene in order to facilitate efficient financing process in tough fundraising environment

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Current State & Trends - VC Financing Market

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- Cautious optimism, not a full rebound: Deal activity is improving, especially at early and late stages, but liquidity remains constrained and uneven, with exits still well below prior-cycle highs despite selective IPO and M&A recovery
- AI dominates capital allocation: AI startups captured 65% of U.S. VC deal value in 2025 YTD and over half of new unicorns, increasingly cutting across sectors including biotech, healthcare, and enterprise tech
- Early-stage activity resurging: First-time financings are near post-2021 highs, driven by lower startup formation costs, rapid AI development cycles, and aggressive seed investing by large multistage funds
- Later-stage market is bifurcated: Top-tier, AI-enabled companies continue to raise large private rounds at increasing valuations, while non-AI or slower-growth companies face tighter capital and higher scrutiny
- Liquidity is shifting, not disappearing: IPOs are reopening selectively, but secondaries and tender offers are becoming a primary liquidity path, allowing companies to stay private longer while providing partial exits for investors

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Current State & Trends - HealthTech VC Market

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- AI-driven valuation boom: Record highs despite market with median pre-money valuation hitting ~$38.5M (all-time high) and 2025 YTD funding ($12.2B) already exceeding all of 2024
- Ambient AI scribes & Revenue Cycle Management (RCM) are winners: These are the "must-have" AI use cases with proven business models with clear, immediate ROI (reduced burnout for scribes; fewer denied claims for RCM), already commercialized at scale (not experimental), and strong reimbursement pathways
- Exit market bifurcation: The healthtech market is splitting into AI-powered winners heading to IPO and non-AI companies consolidating at lower valuations
- Healthtech outperforming broader VC market: Healthtech is a relative bright spot in a challenged VC environment. Still subject to the same macro forces but better insulated due to structural healthcare tailwinds and proven AI use cases.

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Current State & Trends - Life Sciences VC Market

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- Funding remains subdued but stabilizing: Global biopharma VC totaled ~$6.8B in Q3 2025, representing just 5.6% of total VC dollars, though deal counts are beginning to stabilize and are on pace to exceed 2024 levels
- Capital is shifting later-stage and toward de-risked assets: Investors remain risk-off, concentrating capital in clinically validated companies; venture-growth rounds now represent a record ~11% of all biopharma deals, while pre-seed/seed activity has fallen to a five-year low
- M&A, not IPOs, is driving liquidity in the U.S.: The U.S. IPO window remains narrow, with M&A emerging as the primary exit path as large pharma companies acquire assets to offset patent cliffs (e.g., AbbVie's $2.1B acquisition of Capstan Therapeutics)
- China is more active on public listings: While U.S. IPO activity is muted, China accounted for the majority of biopharma IPOs in 2025, reflecting its maturation as a global biopharma capital markets hub
- Fundraising headwinds persist despite improving exits: Life sciences-focused VC fundraising is pacing for its weakest year in a decade, limiting early-stage formation and making sustained exit recovery critical to reigniting capital flows

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Samuel Beavers is a partner in Goodwin's internationally recognized Life Sciences group, specializing in complex transactions including mergers and acquisitions, venture capital financings, and joint ventures for companies at all stages of development. Sam also acts as outside general corporate counsel, providing guidance on commercial contracts and day-to-day corporate governance matters. He has been named as one of the "Best Lawyers in America" for his expertise in mergers and acquisitions.

Sam has experience with a broad range of corporate and transactional matters including company formation, business structuring, drafting and negotiating contracts, venture capital and growth equity financings, mergers and acquisitions, "US flips", royalty monetizations, commercial transactions, capital markets, corporate governance and general corporate matters.

Sam received his JD cum laude from The Ohio State University, where he was a managing editor on the Ohio State Journal on Dispute Resolution. He also attended OSU for his Bachelor of Arts degree, while serving as a Specialist in the Ohio National Guard.

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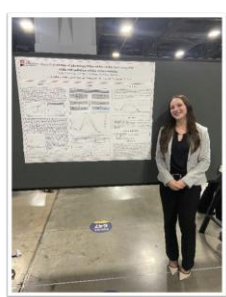

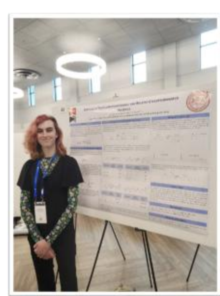

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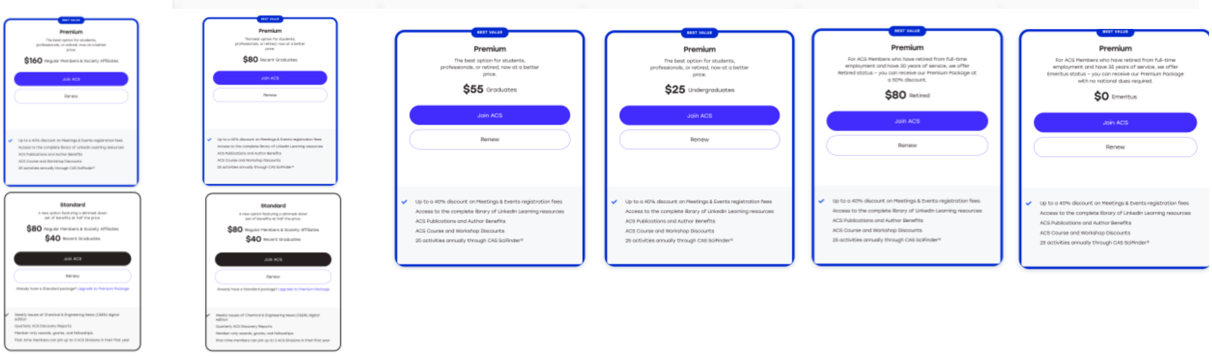

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