

fladgate

M&A TREND  
TRACKER

Second Edition

2022

# Foreword

We are delighted to publish the second edition of our M&A trend tracker.

This publication analyses data from a sample of 20 M&A transactions on which Fladgate advised during 2018 and 2021, i.e. in the period before and after the Covid pandemic.

Our analysis highlights how some deal terms have remained consistent, whereas other terms have evolved pre- and post-pandemic. The analysis gives rise to some interesting conclusions, including that it is often taking less time to close transactions; and that family offices and international buyers are becoming a more prominent fixture in the UK M&A market.

This publication will be of interest to anyone engaged in or considering M&A activity, including funds, HNWs, entrepreneurs and corporates; as well as intermediaries including corporate finance advisers and reporting accountants.

If you would like to discuss this publication further, please get in touch



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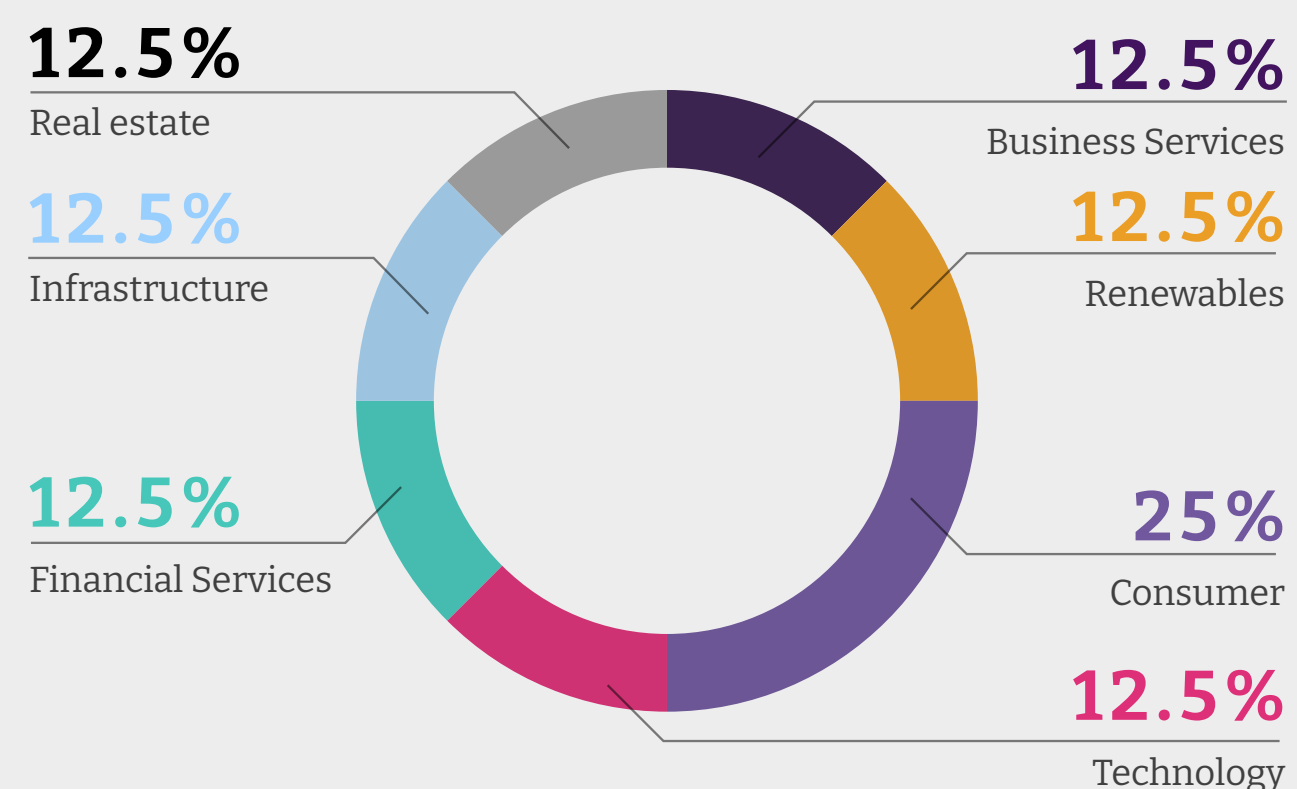


Fladgate is top ranked in the legal directories for M&A deals up to £50 million.

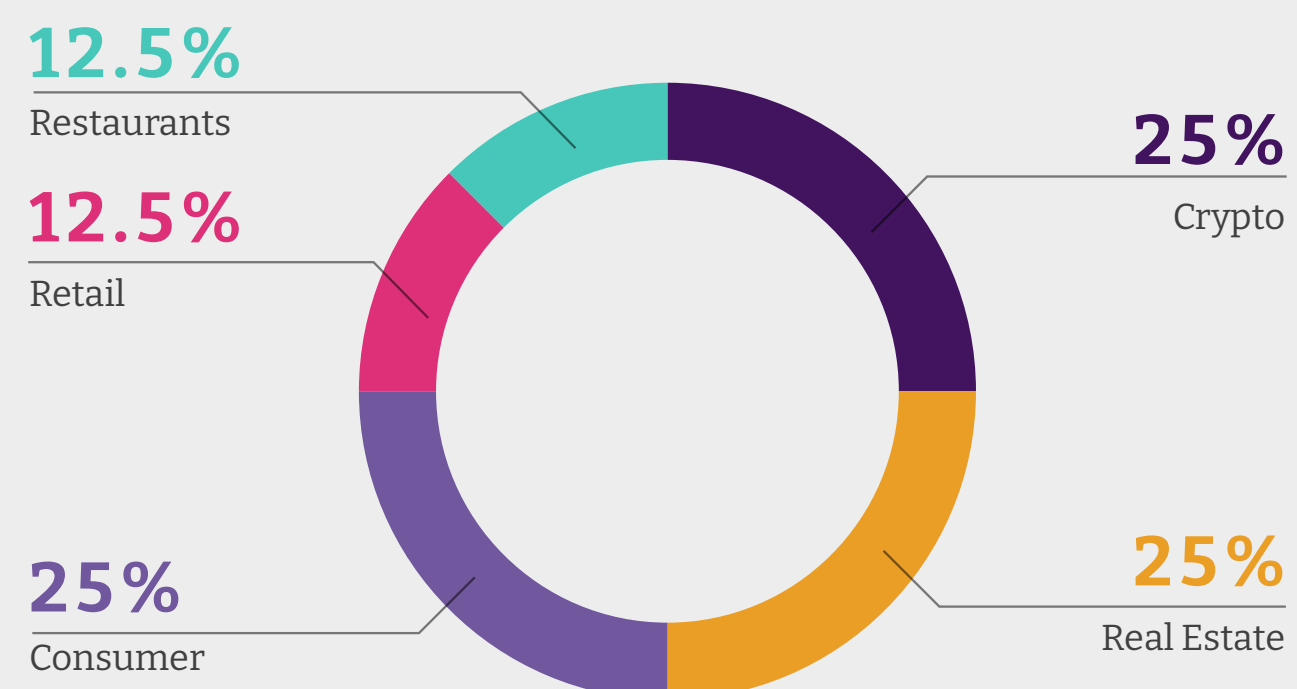
# 01 Sectors

The deals analysed for this publication broke down into the following sectors:

PERCENTAGE OF DEALS BY SECTOR (2018)



PERCENTAGE OF DEALS BY SECTOR (2021)



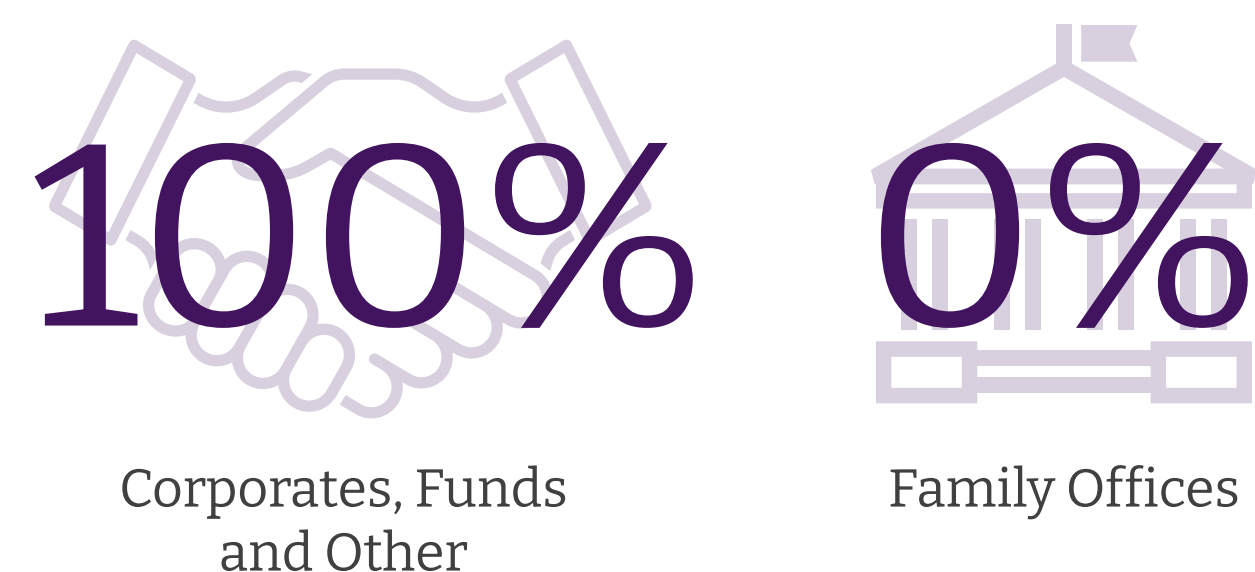
In 2018, crypto accounted for 0% of transactions, but by 2021 accounted for 25% of transactions.

# 02 Buyer and Seller Profiles

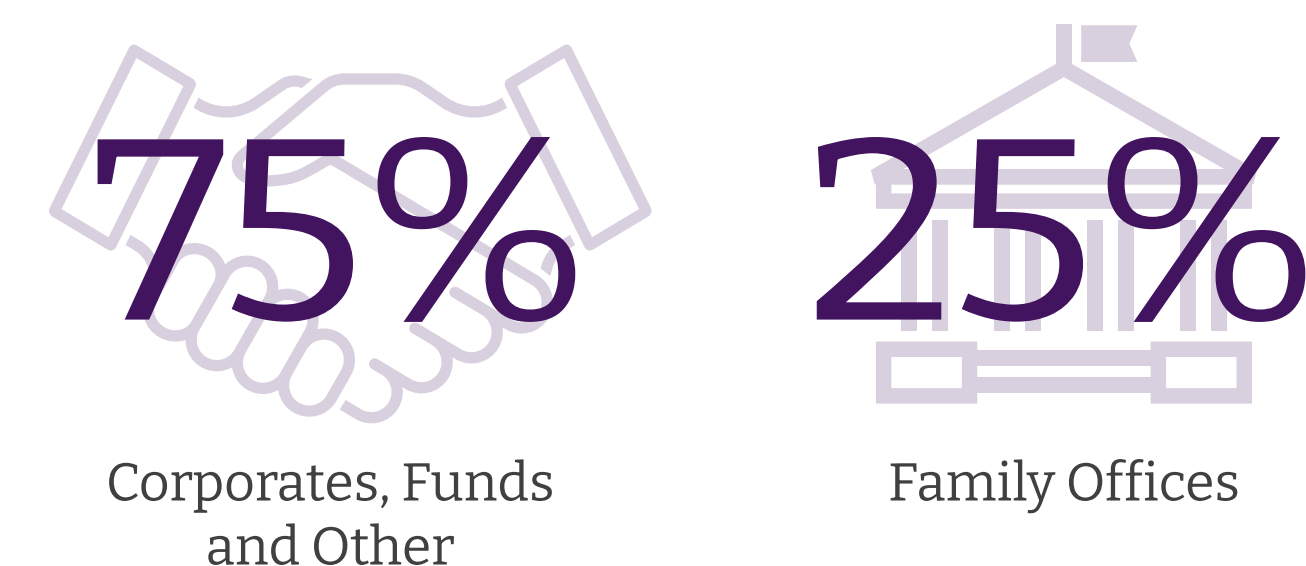
Family offices, as opposed to other types of buyer or seller (for instance corporates or funds), accounted for 25% of buyer deal value and 13% of seller deal value in 2021, up from 0% in 2018.

This evidences the increasing prevalence of family offices as an active participant in the M&A market.

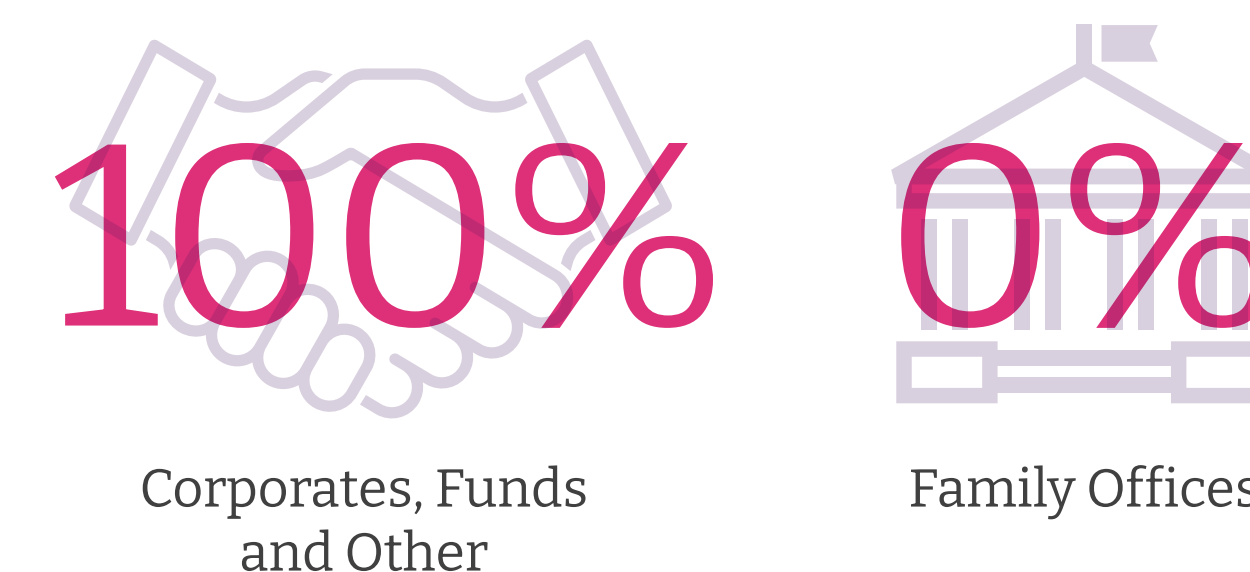
BUYER PROFILE BY DEAL VOLUME (2018)



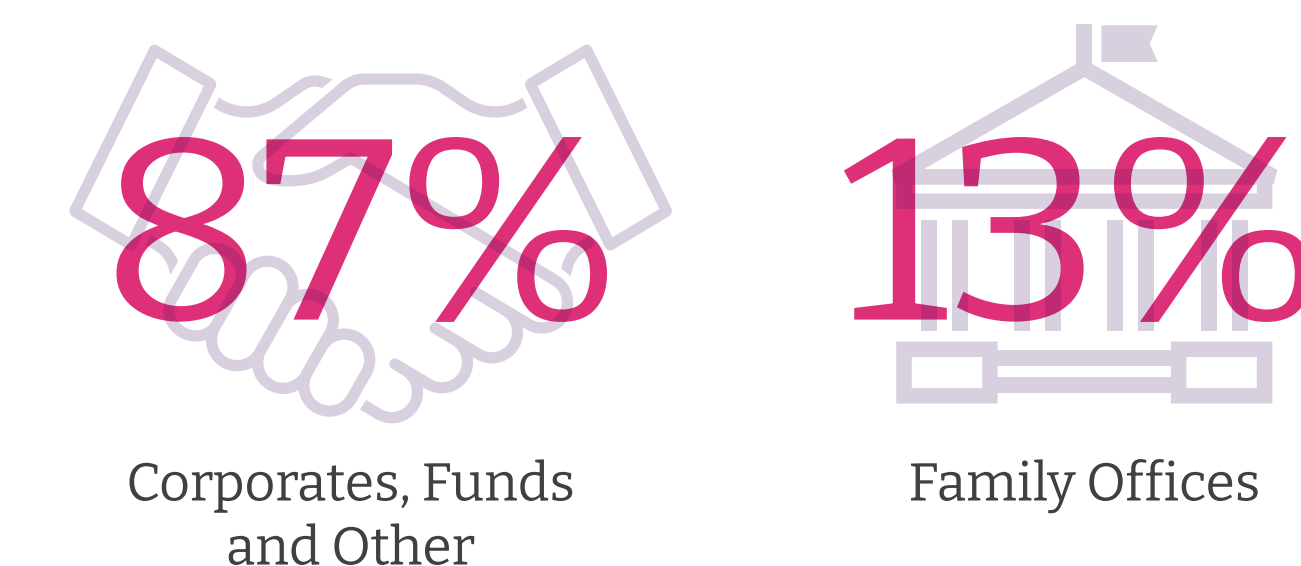
BUYER PROFILE BY DEAL VOLUME (2021)



SELLER PROFILE BY DEAL VOLUME (2018)



SELLER PROFILE BY DEAL VOLUME (2021)

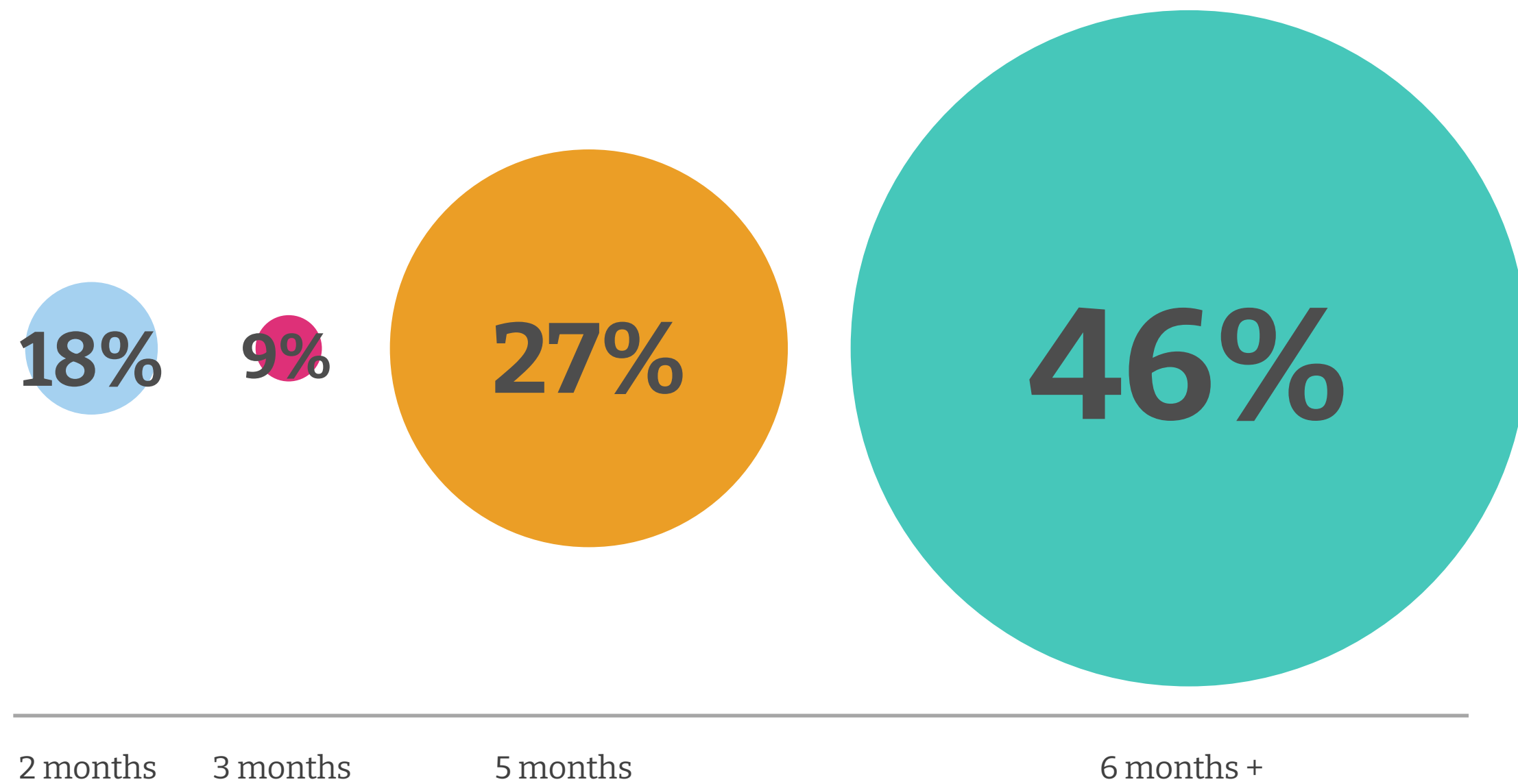


# 03 Time to closing

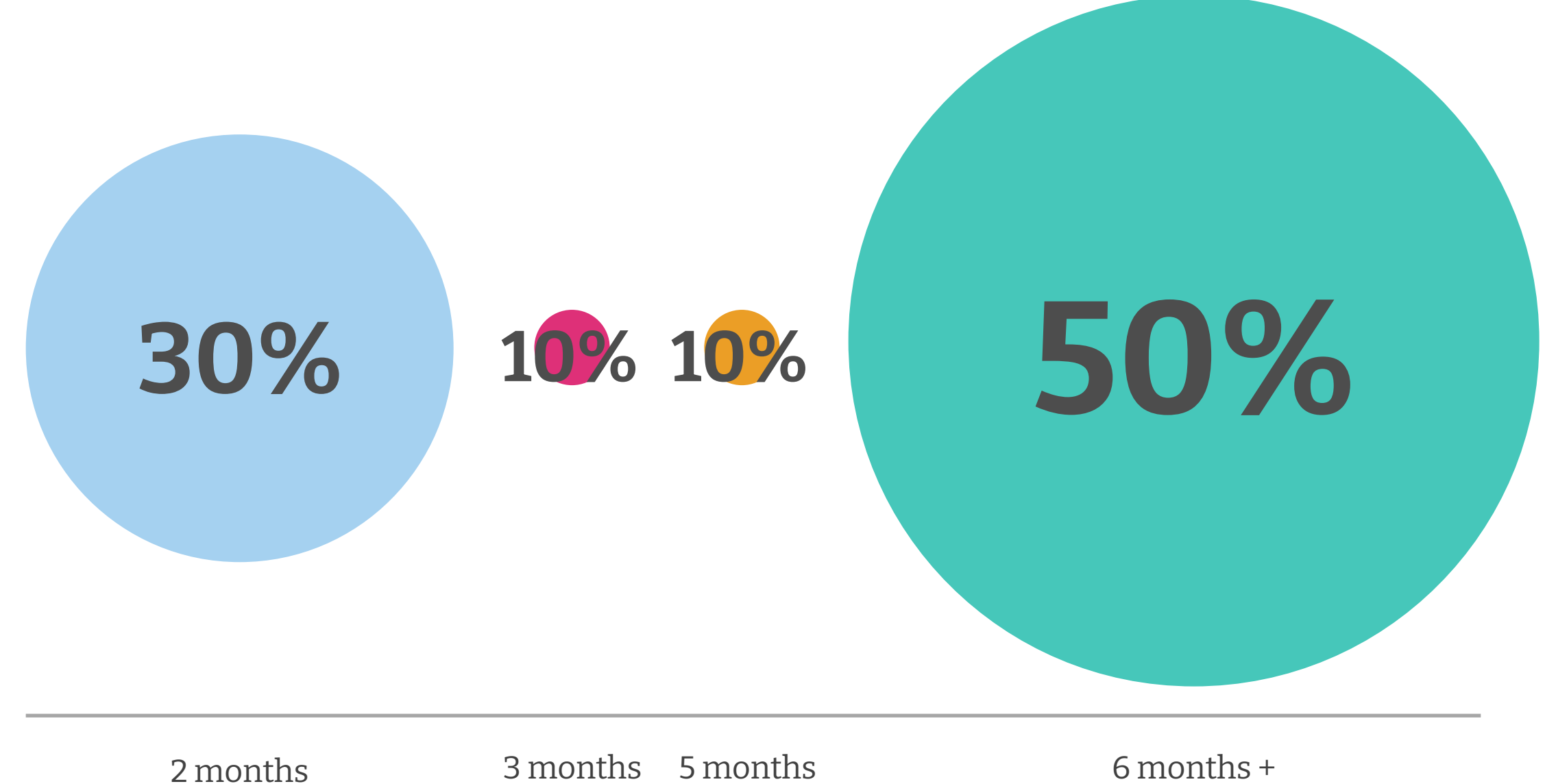
The percentage of transactions that took two months or less to close increased from 18% in 2018 to 30% in 2021. This continues to provide empirical evidence that deals which close are getting done quicker. In both reference periods, a significant proportion of the deals still took six months or more to complete.

It is worth noting that the analysis between 2018 and 2021 broadly is the same as between 2019 and 2020 (as set out in the first edition of our M&A tracker).

TIME TO CLOSING FROM INITIAL INSTRUCTION (2018)



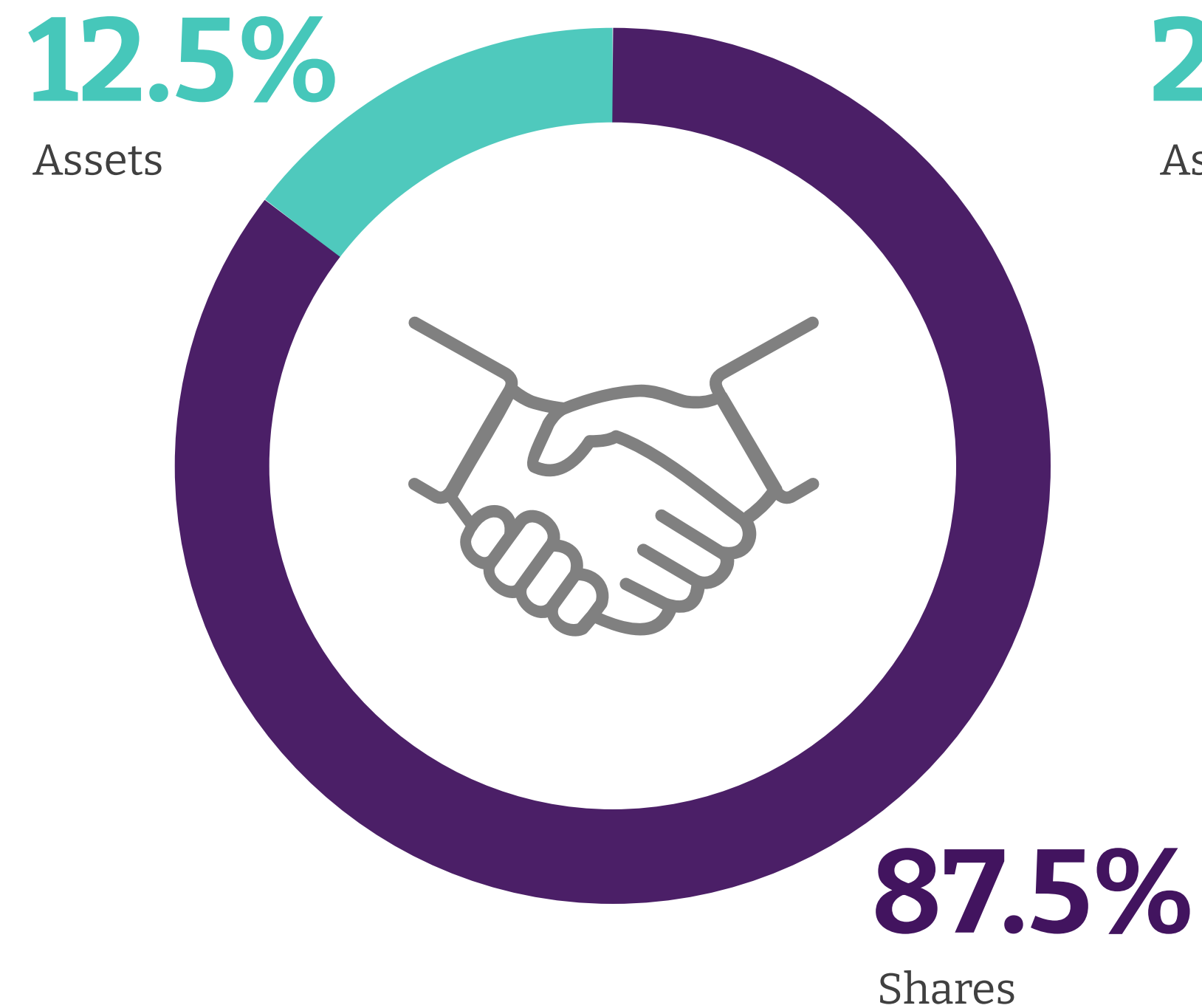
TIME TO CLOSING FROM INITIAL INSTRUCTION (2021)



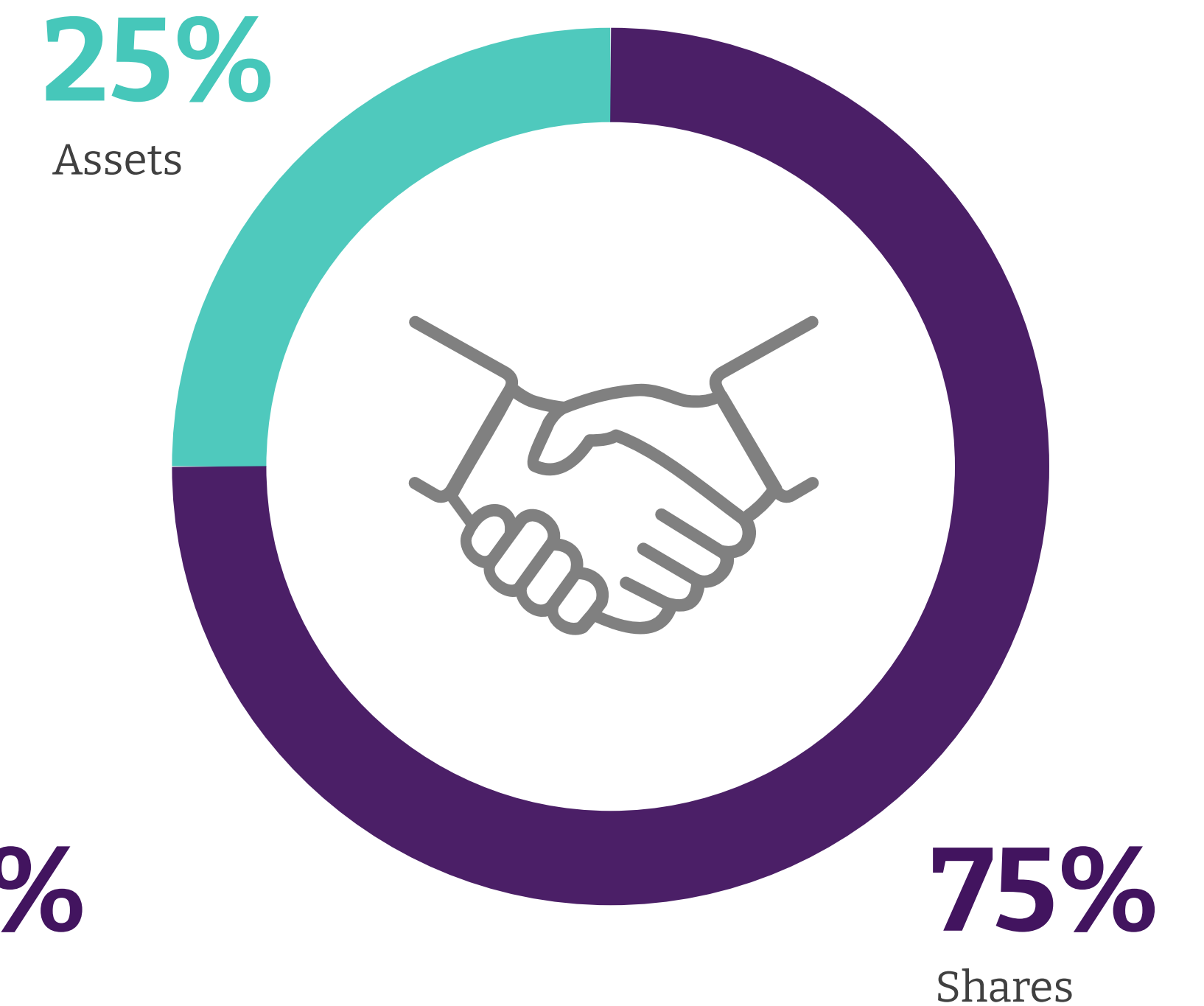
# 04 Share v Asset Transactions

The percentage of transactions structured as asset as opposed to share transactions increased from 12.5% in 2018 to 25% in 2021, i.e. a doubling in number, notwithstanding that asset transactions can be more difficult to execute than share transactions.

ACQUISITION OF SHARES OR ASSETS (2018)



ACQUISITION OF SHARES OR ASSETS (2021)

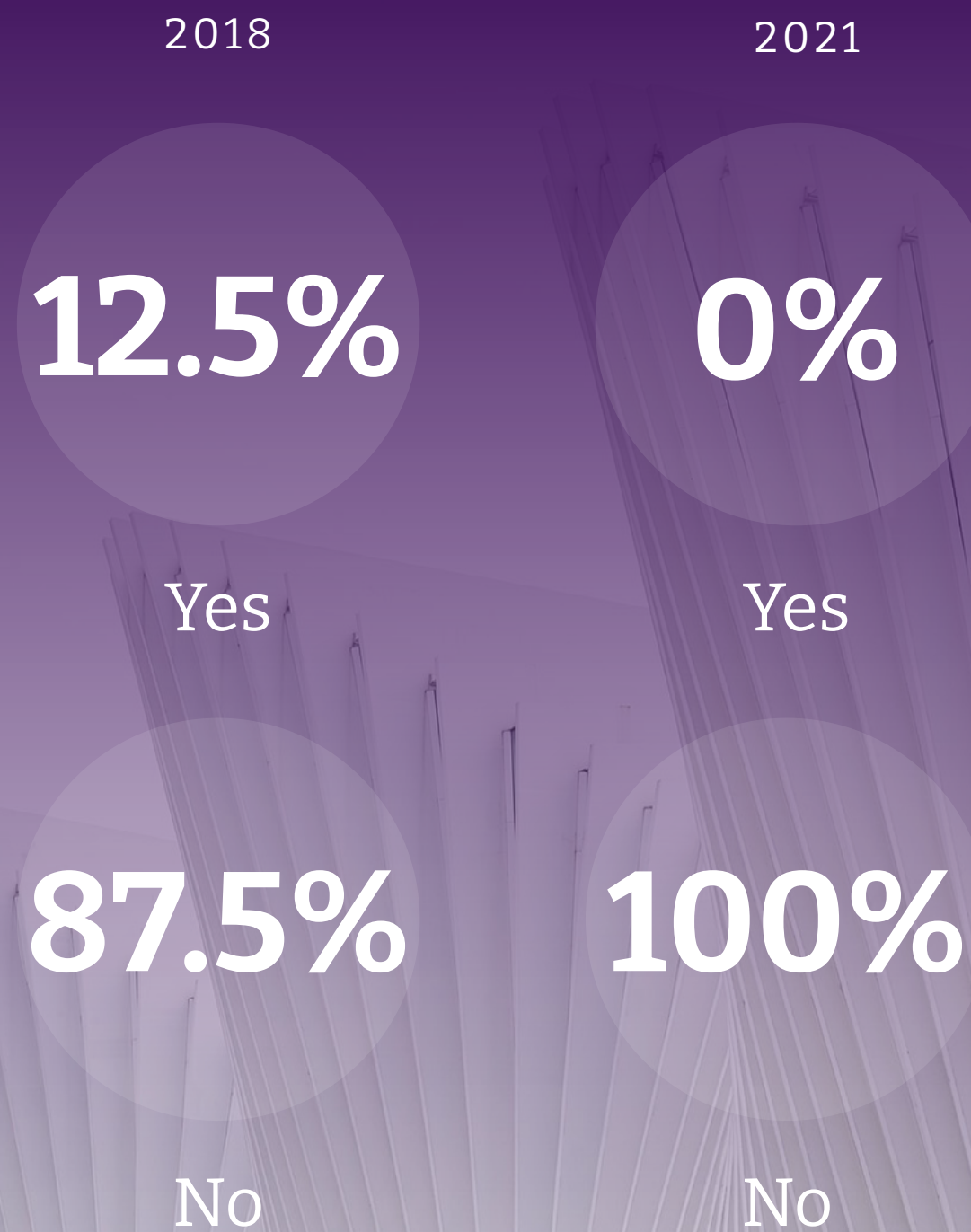


# 05 Leverage

Deals initially financed by third party leverage fell from 12.5% in 2018 to 0% in 2021.

This is unsurprising given the profile of our client base, and extremely high levels of liquidity in the transactional markets supported by years of significant monetary stimulus, thereby enabling buyers to fully equity finance transactions.

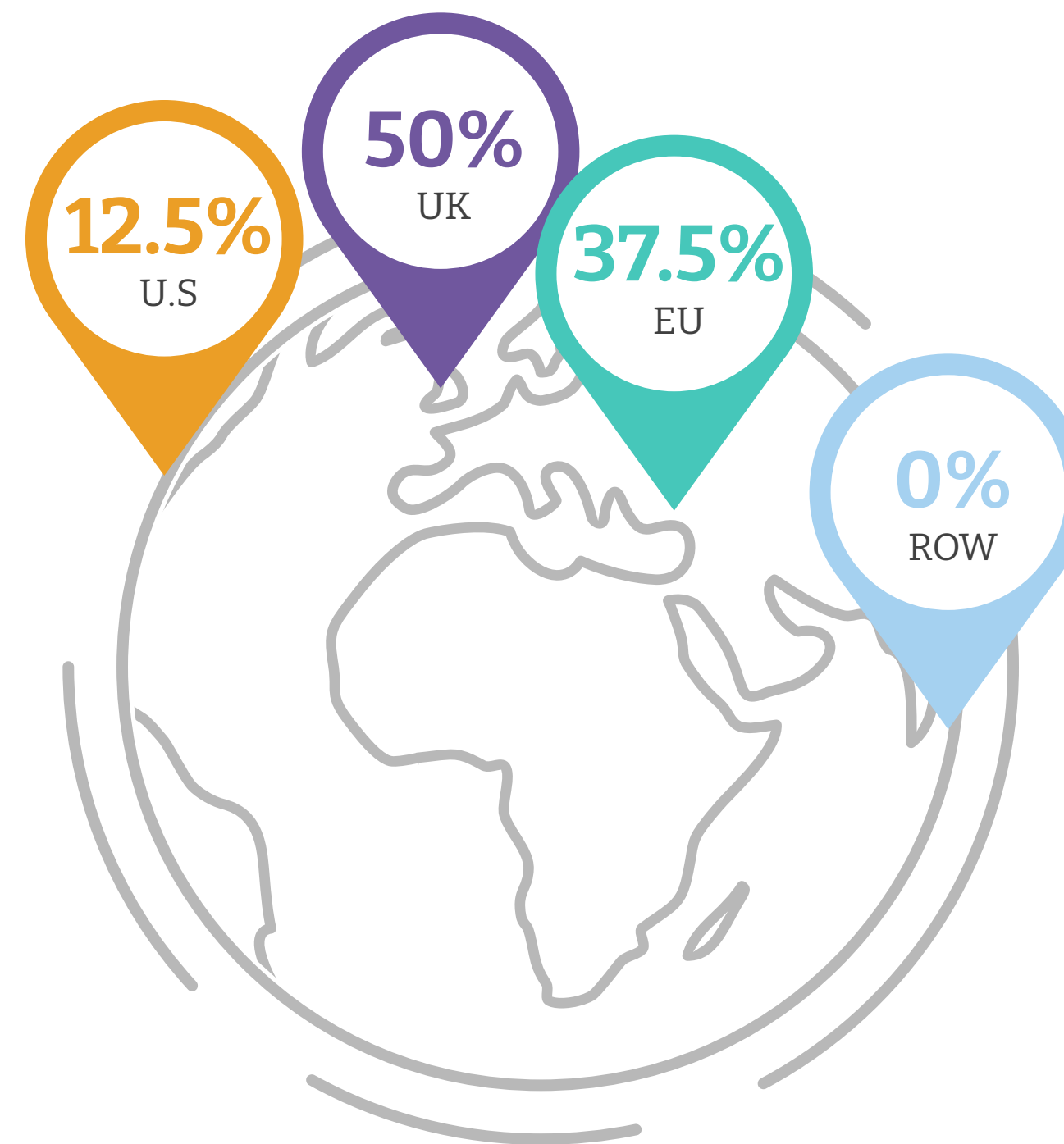
PERCENTAGE OF DEALS WITH THIRD PARTY LEVERAGE 2018 v 2021



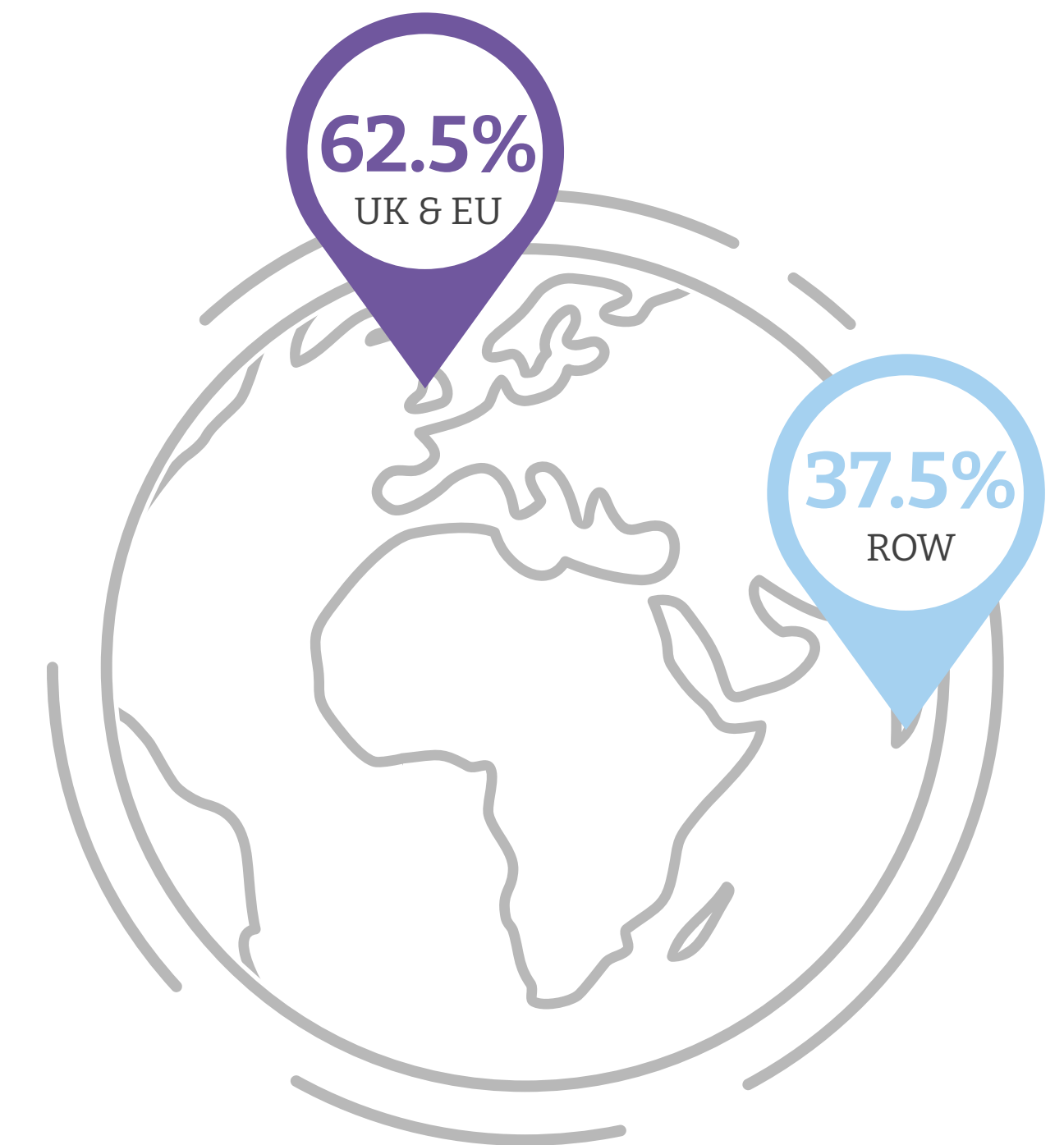
# 06 Geographic location of buyers

Buyers from the Rest of the World (ROW), i.e. excluding the UK, the EU and the US, increased from 0% in 2018 to 37.5% in 2021, which suggests that ROW buyers are increasingly targeting UK assets in the UK mid-market.

GEOGRAPHY: LOCATION OF BUYER 2018



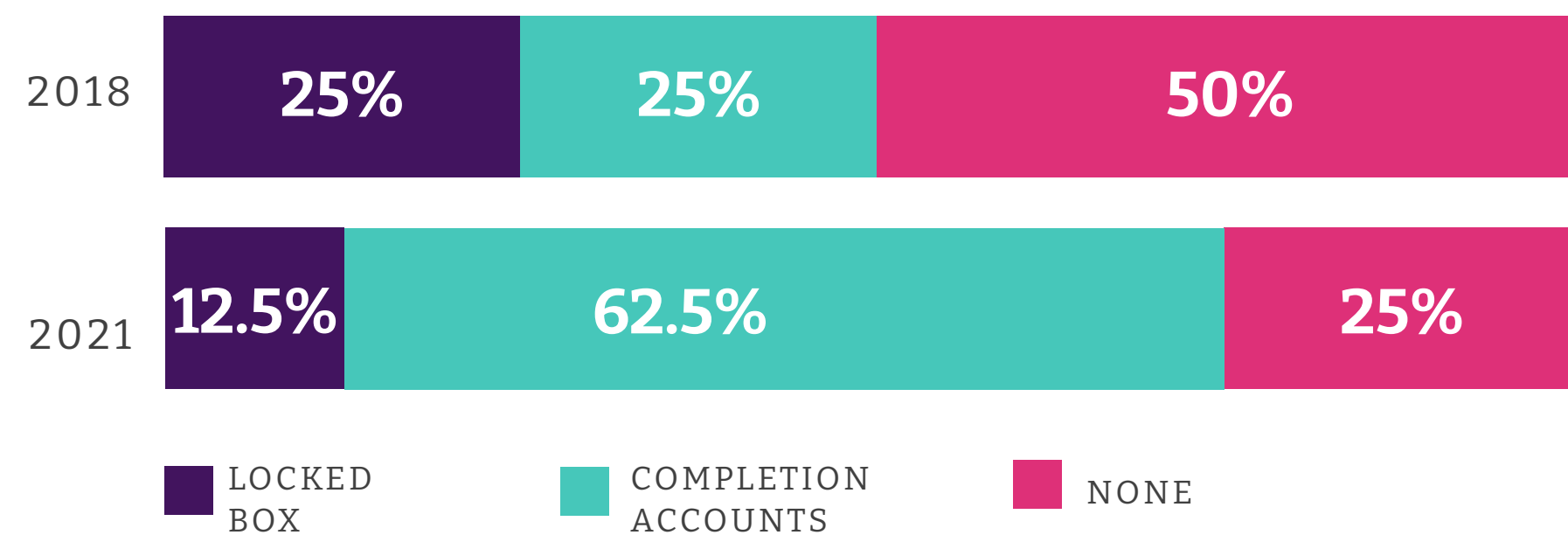
GEOGRAPHY: LOCATION OF BUYER 2021



# 07 Price adjustment mechanisms

Between 2018 and 2021, there was a definitive shift away from locked box mechanisms towards completion accounts.

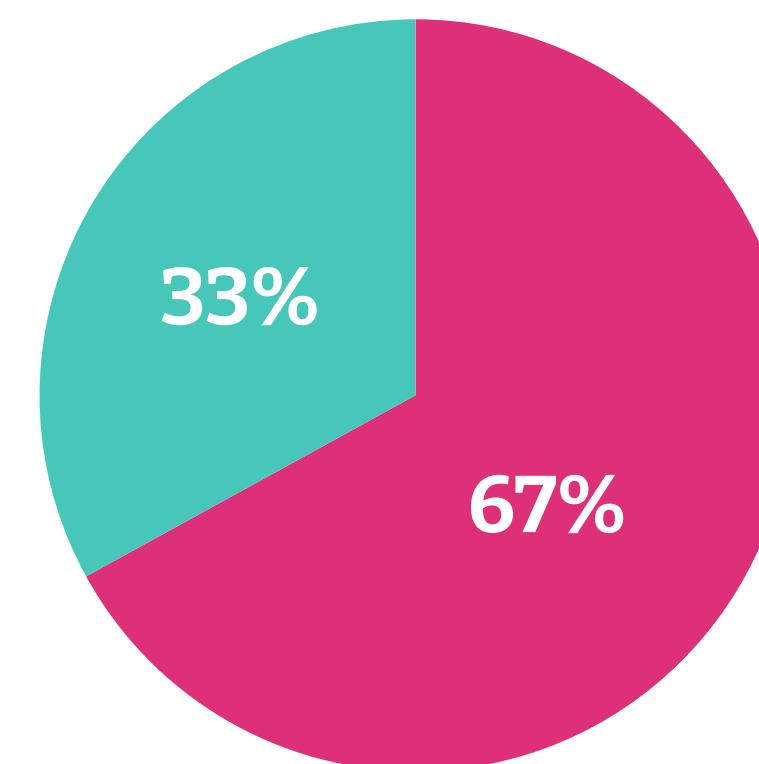
PRICE ADJUSTMENT MECHANISMS  
2018 V 2021



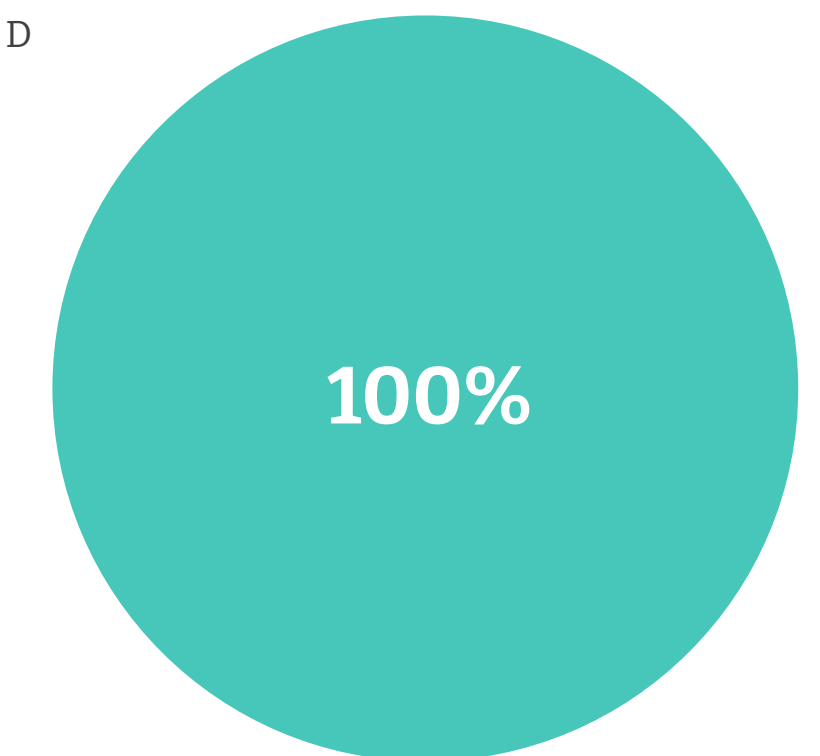
# 08 Earn-outs

For deals in 2018, one third of the deals had revenue based as opposed to EBITDA based earnouts, but by 2021 this had increased to 100%

2018



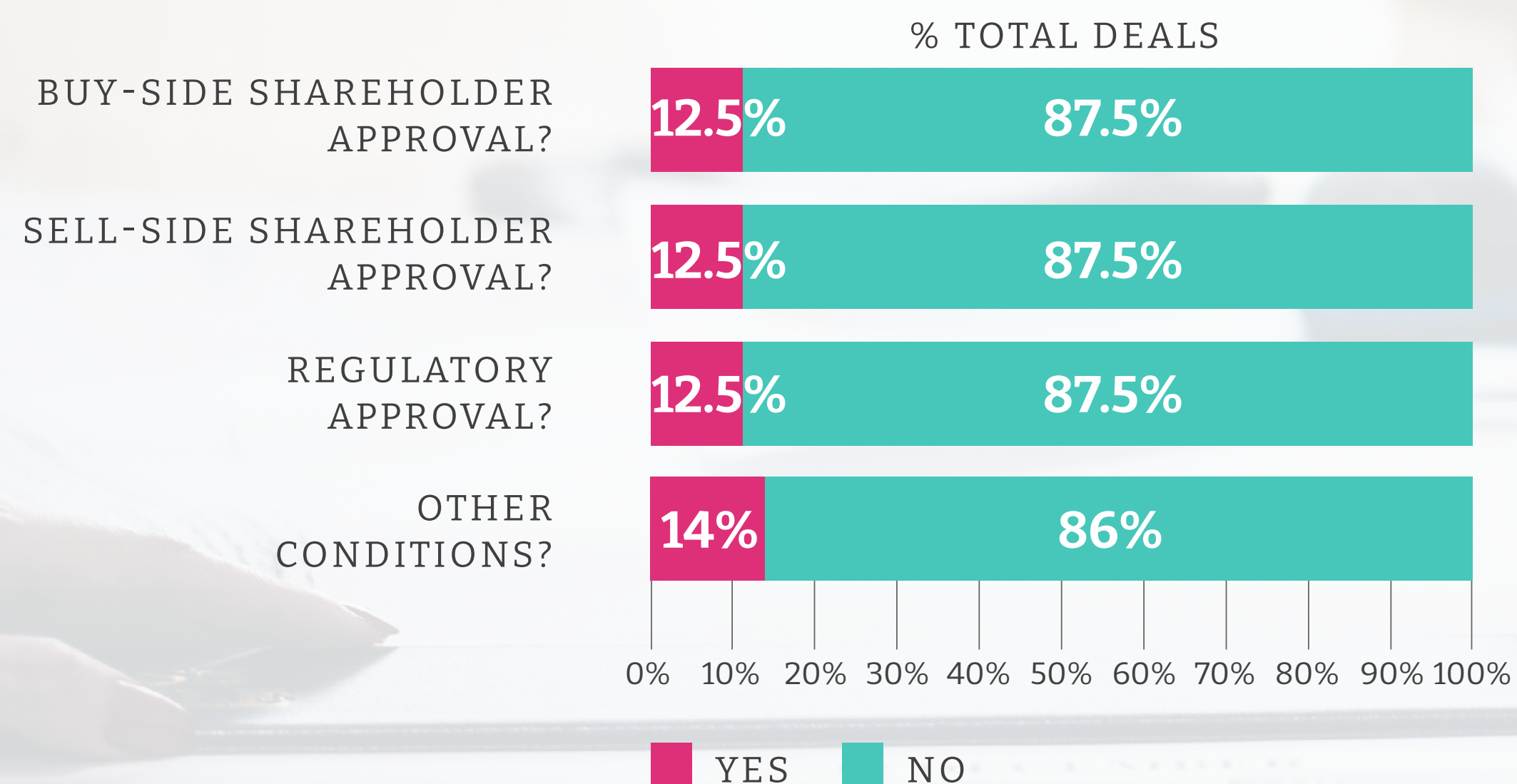
2021



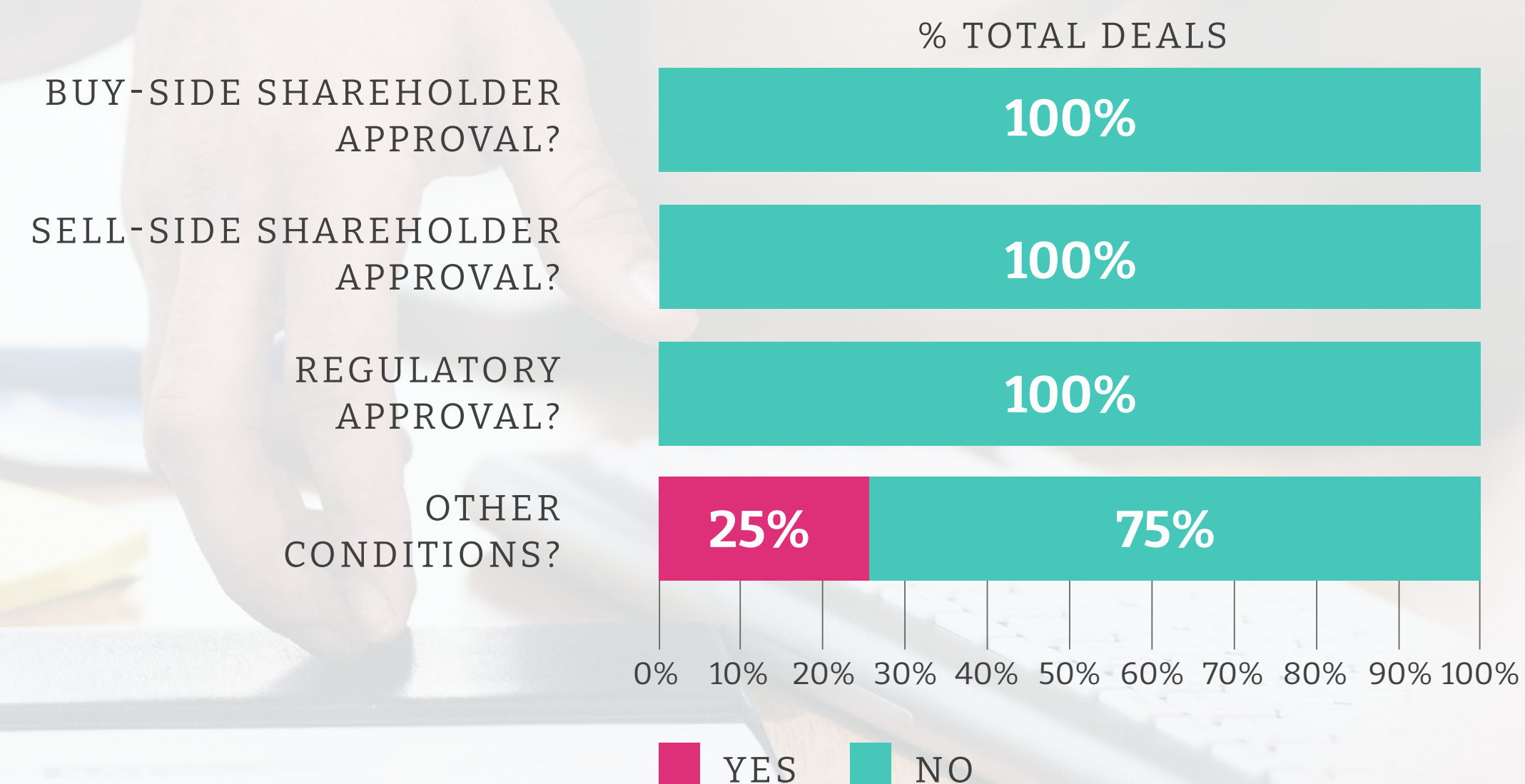
# 09 Conditions to completion

Ultimately, it is difficult to discern any specific trends from these charts. Conditions to closing will be different for each transaction, and will be a function of the terms of each deal and specific legal requirements. Going forward, it is likely more deals will become conditional on the appropriate waivers being granted pursuant to the new UK National Security and Investment Act.

CONDITIONS TO COMPLETION: 2018

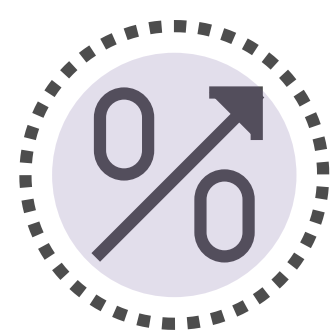


CONDITIONS TO COMPLETION: 2021





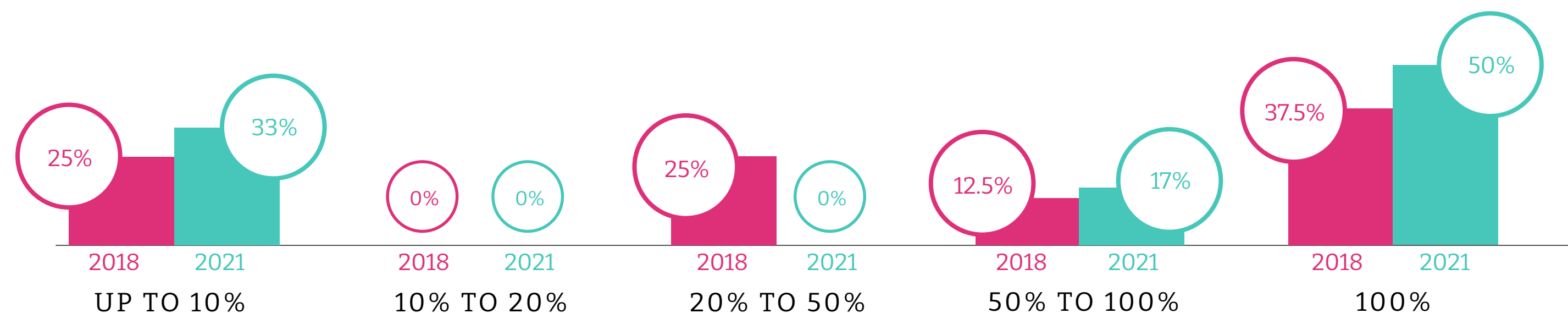
# 10 Liability caps for warranty claims



Caps on liability are trending upwards, which suggests buyers are gaining the upper hand in negotiations.

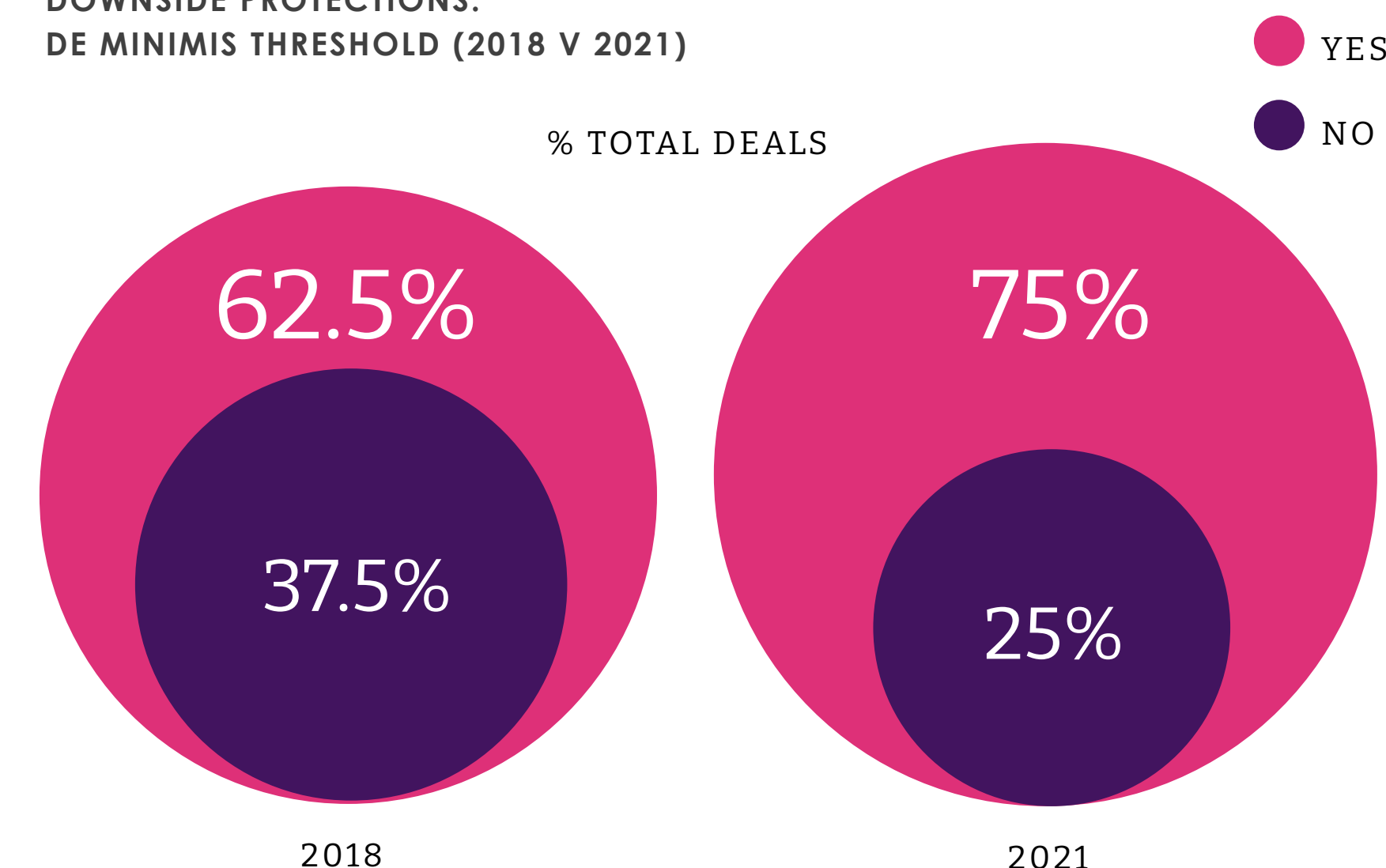
In particular, the number of deals with 100% liability cap increased from 37.5% in 2018 to 50% in 2021. This conclusion is consistent with the equivalent analysis set out in the first edition of our M&A trend tracker.

**DOWNSIDE PROTECTIONS:**  
TOTAL CAP ON LIABILITY AS % OF CONSIDERATION (2018 V 2021)



The incidence of 'de minimis' thresholds increased from 62.5% in 2018 to 75% of deals in 2021.

**DOWNSIDE PROTECTIONS:**  
DE MINIMIS THRESHOLD (2018 V 2021)



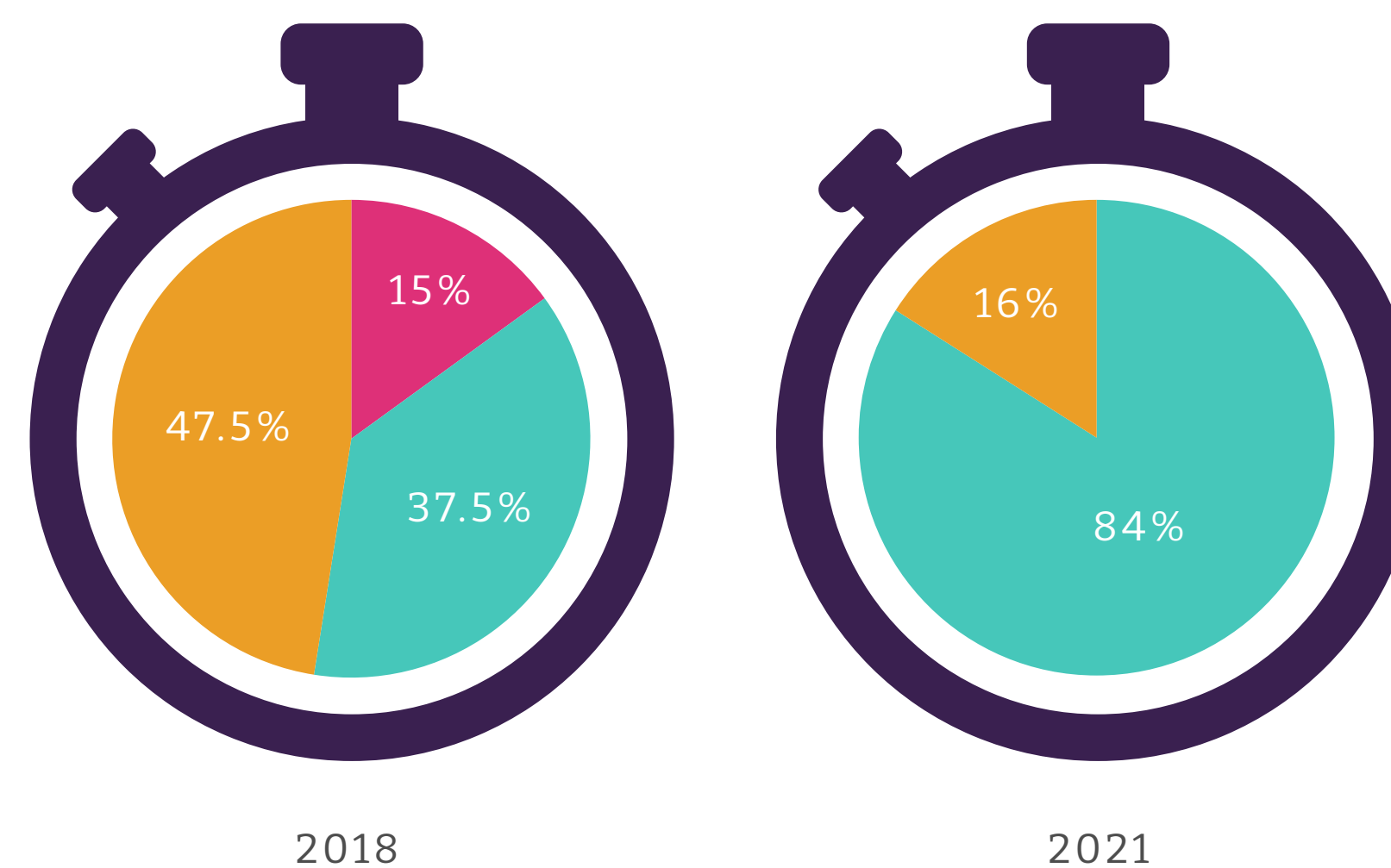
# 11 Time limits for warranty claims

In relation to the time limit for bringing claims for breach of non-tax warranties, between 2018 and 2021, there was a move towards the standard two year closing period. In fact, the percentage of deals with a two year time limit increased from 37.5% in 2018 to 84% in 2021.

Conversely, the time limit for bringing claims for breach of tax warranties remained broadly consistent across the two reference periods.

## DOWNSIDE PROTECTIONS: TIME LIMIT FOR NON-TAX WARRANTIES (2018 V 2021)

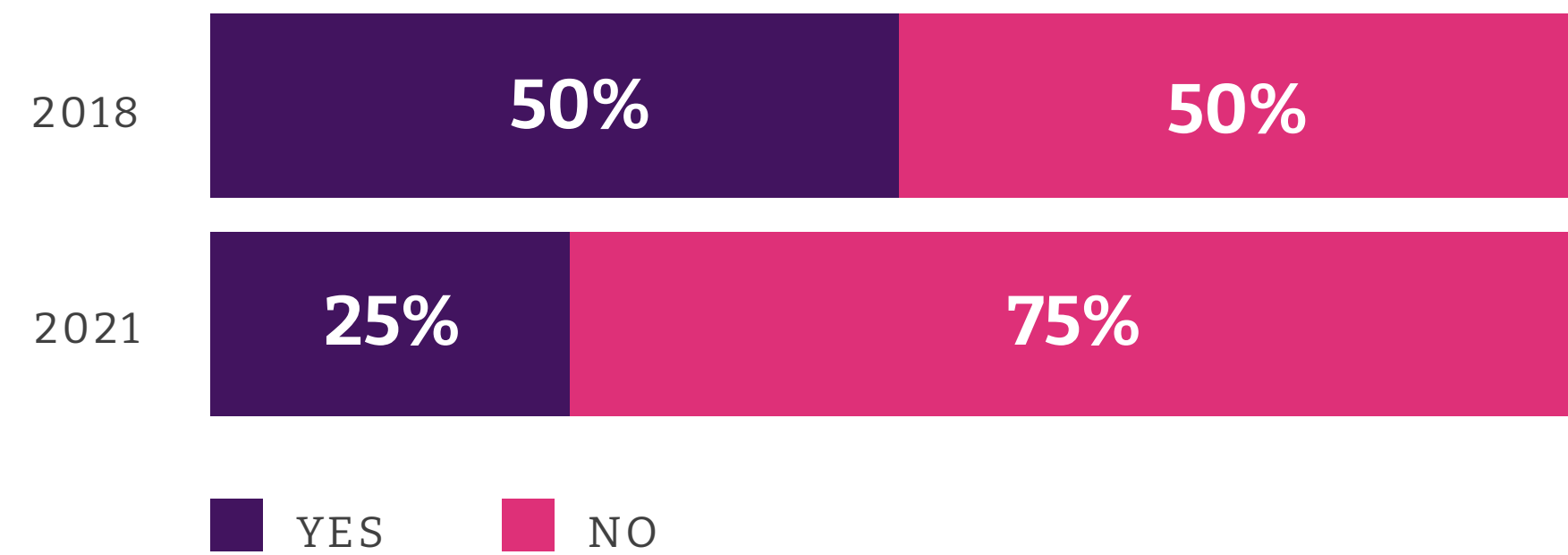
■ ONE YEAR ■ TWO YEARS ■ ONE YEAR'S ACCOUNTS



# 12 Non-Tax Indemnities

There was a decrease in deals where the seller gave non-tax related indemnities (as opposed to warranties) to the buyer, with the percentage of such deals decreasing from 50% in 2018 to 25% in 2021.

DOWNSIDE PROTECTIONS: NON-TAX INDEMNITIES FROM THE SELLER (2018 V 2021)



# 13 Warranty and indemnity insurance

Between 2018 and 2021, there was no change in proportion of buyer sourced and seller sourced policies.

DOWNSIDE PROTECTIONS: W&I POLICY ON DEAL (2018 V 2021)



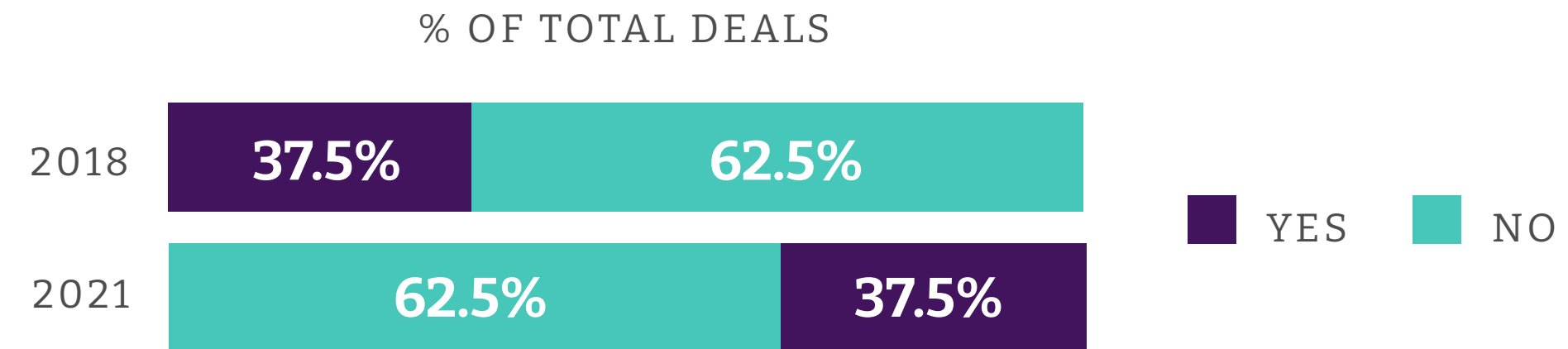
# 14 Tax



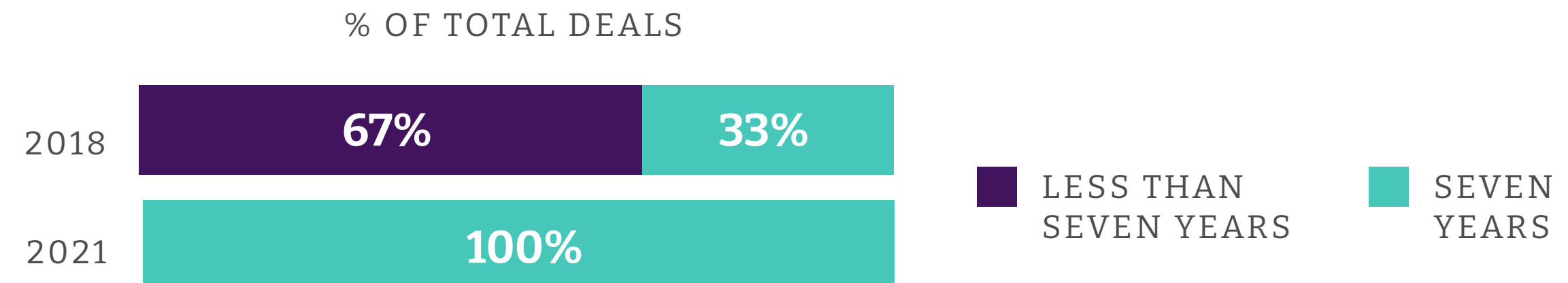
Somewhat surprisingly, tax deeds from the seller in respect of pre-closing tax liabilities noticeably increased from 37.5% of deals in 2018 to 62.5% of deals in 2021.

Over the same period, the seven year tax period for bringing tax claims became more entrenched, rising from 33% of deals in 2018 to 100% of deals in 2021.

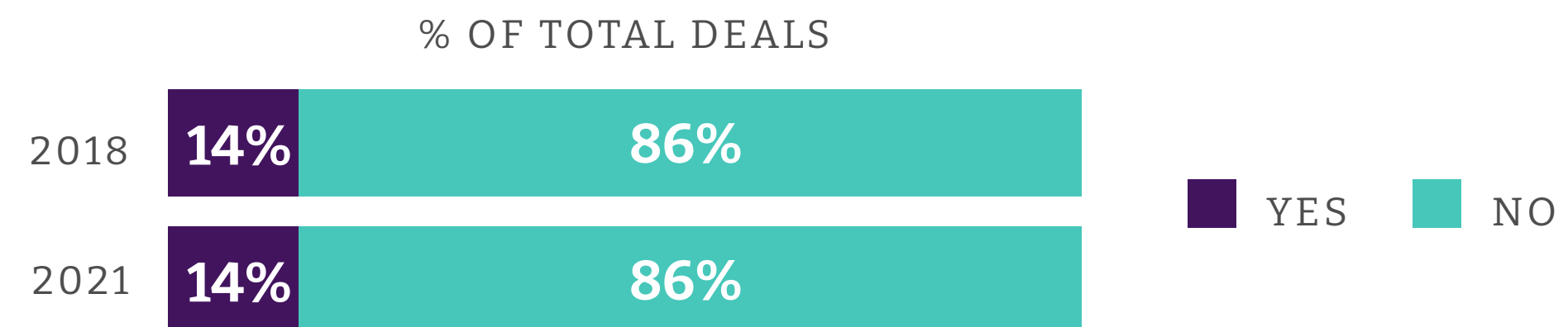
## TAX DEEDS (2018 V 2021)



## TIME LIMIT FOR CLAIMS UNDER TAX DEED (2018 V 2021)



## COVENANT FROM BUYER (2018 V 2021)



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