Firstlinks
a Morningstar company

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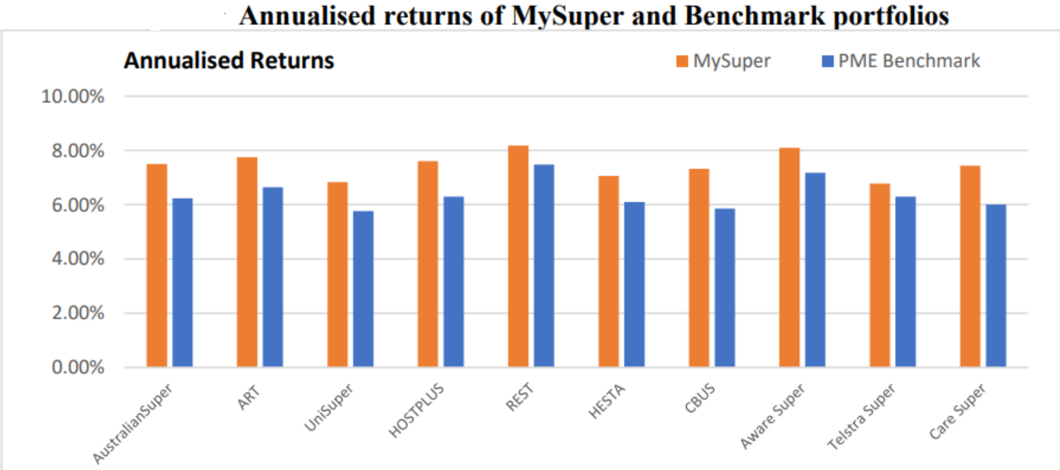
Editorial

A recent study from the Monash Centre for Financial Studies gave our super funds a big thumbs up. The study showed that unlike its US counterparts, Australian super funds had consistently outperformed market benchmarks over the past 20 years.

It revealed that 10 of the largest Australian funds produced an annual outperformance versus benchmarks ranging from 0.57% to 1.53%, with an overall average of 1.11%.

Cbus and Hostplus topped the group, followed by AustralianSuper and Care Super, while TelstraSuper and Rest lagged.

Annualised returns of MySuper and Benchmark portfolios



Notes: The period covered was November 2005 to December 2024 for all super funds, except for UniSuper, REST and Telstra Super. For UniSuper the start date is February 2007, for REST July 2009 and for Telstra Super July 2006. The difference in annualised excess returns is statistically significant for 8 out of the 10 MySuper portfolios.

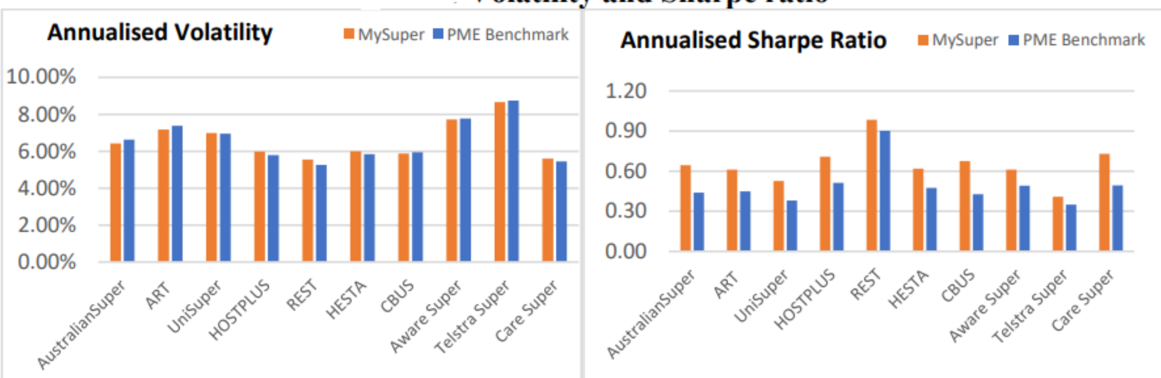
10-Year Rolling Annualised Excess Returns

	Australian Super	ART	UniSuper	HOSTPLUS	REST	HESTA	CBUS	Aware Super	Telstra Super	Care Super
Min	1.11%	0.13%	0.97%	0.83%	0.23%	0.75%	1.39%	0.33%	-0.09%	1.28%
Max	2.07%	2.11%	1.52%	2.49%	1.05%	1.80%	2.42%	1.60%	0.84%	2.01%
Mean	1.55%	1.25%	1.23%	1.64%	0.59%	1.26%	1.91%	1.01%	0.44%	1.70%

Notes: The reporting period for all super funds, except UniSuper, REST, and Telstra Super, is from November 2015 to December 2024. UniSuper's start date is February 2017, REST's is July 2019, and Telstra Super's is July 2016. The table reports annualised excess returns.

The study found that the super funds performed well during good and bad times and delivered impressive risk-adjusted returns.

Volatility and Sharpe ratio



Notes: All super funds, except UniSuper, REST, and Telstra Super, were covered from November 2005 to December 2024. UniSuper's start date is February 2007, REST's is July 2009, and Telstra Super's is July 2006. We use the 3-month Bank-Bill rate as the risk-free rate to calculate the Sharpe ratios.

The study attributed the outperformance to the funds investing in alternative assets and using active management. Yet, curiously, it didn’t explain or quantify how much these factors contributed to returns.

The rise (and fall?) of alternative investments

There’s no doubt that the super funds have been enthusiastic supporters of alternative, or unlisted, investments and it has helped boost their returns.

Hostplus has been at the forefront of it. Its growth fund, for instance, has 29% of its assets in unlisted assets, split between property, infrastructure, private equity, credit, and alternatives.

The largest super fund, AustralianSuper, is also a large investor in alternatives. Its balanced fund has more than 25% of its portfolio in unlisted assets.

As with many trends, our super funds have followed the Americans.

Former CIO of Yale University, David Swenson, pioneered the so-called endowment model in the 1990s and changed the way institutions invest, moving them from a narrow focus on marketable securities to an extended diversification across a variety of other assets, including unlisted ones such as private equity and venture capital.

After Swenson achieved top tier returns, other universities jumped on board.

A number of academic studies seem to confirm that unlisted assets can deliver better risk-adjusted returns than public equities over the long-term.

Yet, questions are emerging about the sustainability of Swenson’s model. Over the past 12 months, sentiment has soured on the likes of private equity and venture capital.

There's been a snowball effect as deals in the sector stall. Private equity funds can't sell assets, so they can't distribute cash to their clients, and many of those same clients are less willing to finance future deals, and that's resulting in fewer fees and profits for the funds. A not-so-virtuous circle.

Topping it off, there are forced sellers in the market. Yale University is looking to sell US$6 billion in private equity assets, representing 15% of its total portfolio, and 30% of its private equity assets.

It's doing this to raise cash. The university is being crunched by slowing tuition revenues and federal funding cuts enacted by Donald Trump.

Faced with similar pressures, Harvard University is also looking to offload US$1 billion in private equity assets.

These are big sales. Last year, Evercore says endowments and foundations sold just under $9 billion in the secondary market.

Yale and Harvard are likely to take hits on the portfolios as the average discount for buyout portfolios was 10% last year.

The depressed environment has impacted the share prices of the large players in unlisted assets, with KKR and Blackstone down 31% and 26% respectively over the past three months.

Source: Morningstar

Source: Morningstar

The big question is whether super funds have been late to the alternative asset party, and a comeuppance awaits.

It's interesting that Swenson wrote in his seminal book, *Pioneering Portfolio Management*, that because "market players routinely overpay for liquidity, serious investors benefit by avoiding overpriced liquid securities, and by embracing less liquid alternatives."

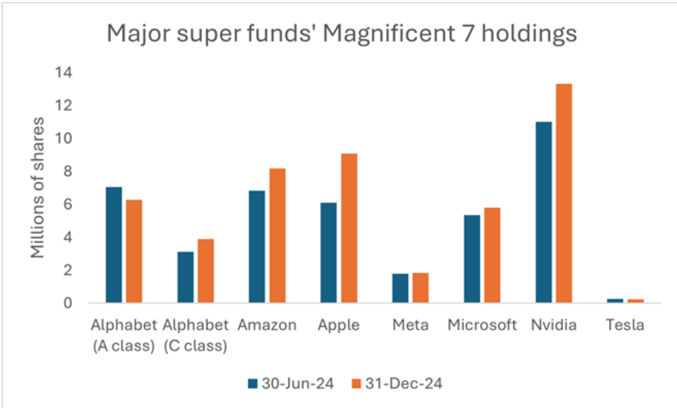
Could it be that the tables have turned and investors including super funds have been too willing to overpay for *illiquid* assets versus more liquid ones of late?

Trumped

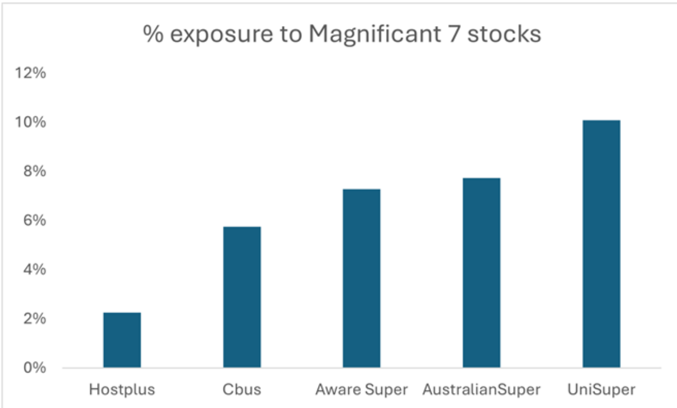
The other watch is on the super funds' US tech holdings. Following the election of Trump in November, there seemed to be a consensus view among the big super funds that the US market would continue to outperform the rest of the world, and US tech would be at the forefront of that. To be fair, almost every other global fund manager shared that view.

Most of the major super funds increased their exposure to US tech stocks in the second half of last year.

The Magnificent Seven stocks were meaningful parts of portfolios at the big super funds as we entered 2025.



Source: AustralianSuper balanced fund, Aware Super balanced fund, Cbus growth fund, Hostplus growth fund, UniSuper growth fund.



Source: AustralianSuper balanced fund, Aware Super balanced fund, Cbus growth fund, Hostplus growth fund, UniSuper growth fund. As of Dec 31, 2024.

The positivity of some super funds to US stocks has diminished in the wake of Trump's tariff policies and subsequent market correction. John Pearce, CIO at UniSuper – a Firstlinks sponsor - has said that he'll look to decrease US holdings over time.

Will the performance of super funds be impacted if non-US stocks continue to outperform US ones and unlisted asset valuations come under pressure?

Time will tell.

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In my article this week, active funds have copped a lot of flak of late, yet there are still plenty of good fund managers in Australia that can deliver outperformance in the long-term. I look at how to identify the best active funds for your portfolio.

James Gruber

Also in this week's edition...

Our undersupply of housing has been well documented, but **Michael Matusik** looks at some of the key drivers, and how to fix the problem. He also offers a warning that the next generation won't forgive us for our current ineptitude.

There's been a lot of talk about the cost of living crisis, and energy is a big part of that. Electricity transmission has been less spoken of, yet it looms as a huge issue going forward, according to **Peter Warnes**. He suggests the energy transition depends on transmission capacity being added and we're way behind the eight ball on this.

Lawyer, **Greg Russo**, is back, this time with a guide to family trusts and relationship breakdowns. Greg says preserving trust benefits in family law disputes can be tricky, though he offers some pointers to help with the process.

Recent changes to property taxes in Victoria have had some property holders questioning whether to maintain a holiday home. With the potential for other states to also play with property taxes, **UniSuper's Brooke Logan** says it's timely to consider the implications and opportunities individuals may have if they're looking to sell their holiday home.

Stocks outside the US have been getting some love after 15 years of relative neglect. **Lucas Klein** believes this can continue as when outperformance between regions flips, it tends to persist for a long period of time.

Dimitri Burshtein thinks Australia's Future Fund offers a cautionary tale for Donald Trump's plans for a sovereign wealth fund. He urges Trump to bin the idea.

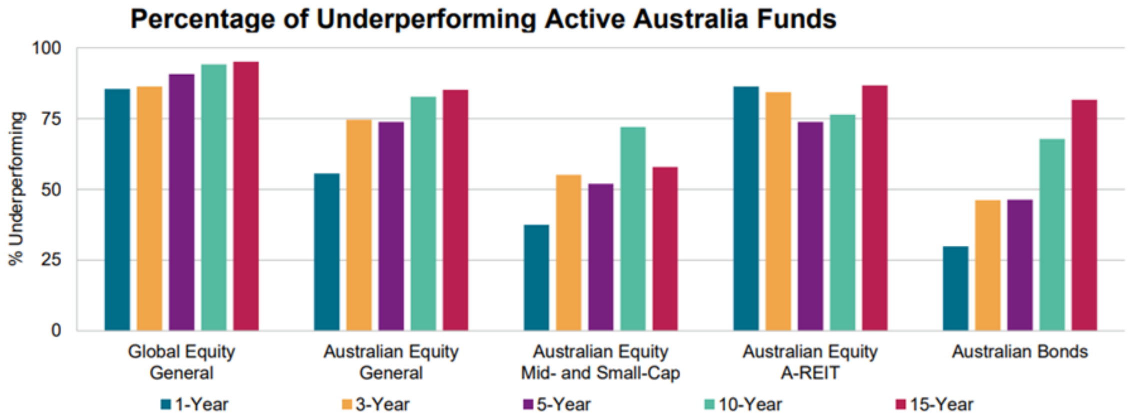
Lastly, in this week's whitepaper, we have **Neuberger Berman**'s latest Asset Allocation Committee Outlook exploring if financial markets are experiencing the storm before the calm.

Curated by James Gruber and Leisa Bell

How to choose a good fund manager

James Gruber

Active fund managers have been copping it in recent years. On the one hand, passive funds have attracted huge swathes of money by offering investors a low cost and convenient way to access markets. And on the other, the growth in private investment has lured investors with the potential for outperformance with lower volatility, albeit with high fees attached. With their relatively large fees and mediocre performance, active funds have been caught in the middle and it hasn't been pretty.



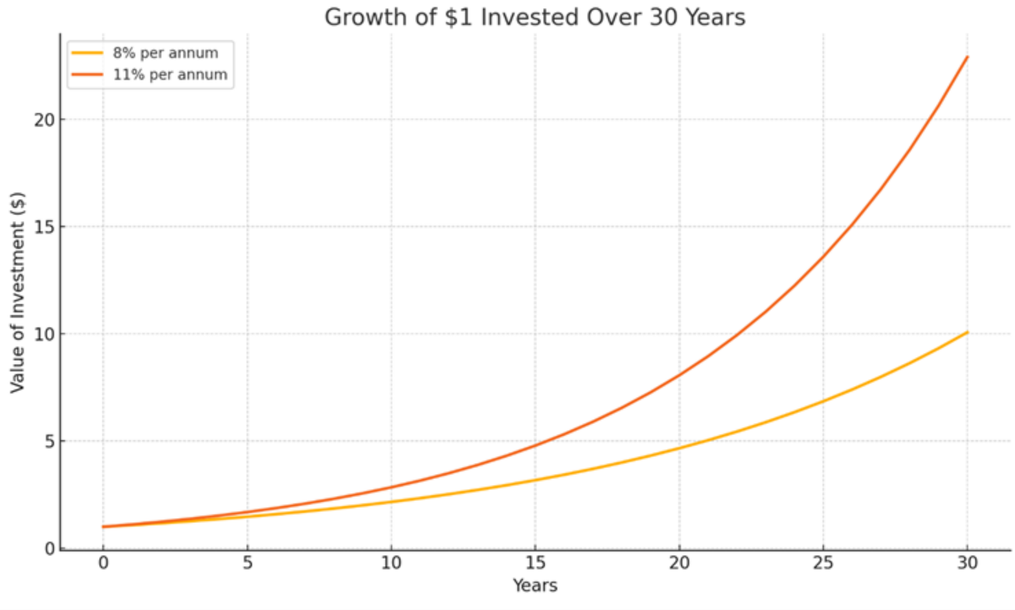
Source: S&P Dow Jones Indices LLC, Morningstar. Data as of Dec. 31, 2024. The S&P World Index (AUD) was launched May 28, 2020. All data prior to such date is back-tested hypothetical data. Past performance is no guarantee of future results. Chart is provided for illustrative purposes and reflects hypothetical historical performance. Please see the Performance Disclosure at the end of this document for more information regarding the inherent limitations associated with back-tested performance.

The above chart captures the poor performance of active managers. In 2024, 56% of Australian equity funds underperformed. Over the past 15 years, it's been 85%. Global equity funds have fared even worse.

Australian mid and small cap equities funds and Australian bond managers did better in 2024, though their numbers are less impressive over longer periods.

Given all this, why would the average investor bother with active funds? Here are three reasons:

1. The tide may be about to turn for these funds. That's because two of the key trends of the past decade - the crowding into mega caps and low market volatility – are possibly reversing, which could be a boon for active funds.
2. Even without this, there are still a lot of good fund managers, especially in the mid and small cap stock space, who have a consistent track record of outperformance.
3. Finding a good fund manager can make a big difference to a portfolio. The chart below shows a hypothetical example of what 3% outperformance from a fund can do in the long-term.



Source: Firstlinks, ChatGPT.

How to identify the best managers

So, how to identify active funds that will deliver for your portfolio? Here are the key traits that I look for:

1. A track record over +10 years

For me, a track record of outperformance is critical, and it needs to be judged over a long timeframe. The longer the better. Why? Because funds should be assessed over several business and market cycles.

For example, momentum and growth stocks have dominated over the past 10 years, while value stocks have lagged. Any momentum or growth fund that hasn't outperformed in this environment has failed miserably. Conversely, any value-style fund that has managed to outperform has done a terrific job.

A longer track record allows for a more thorough assessment of a fund's performance across different market environments.

2. Exceptional individuals/small team

In my experience, the best funds often have small teams. Larger teams can lead to there being "too many chefs in the kitchen."

That doesn't mean larger teams can't work. Some mega global managers have mastered the art of teamwork and funds management.

In my experience though, they're the exception to the rule.

3. An identifiable philosophy/process

Is a fund's philosophy understandable? Has the philosophy and process been consistent over time?

A fund may have a great track record, but if I'm not comfortable with its philosophy and process, I generally walk away.

For example, I've never invested in well-known fund manager, Cooper Investors, because I've never understood their idea of finding 'value latency' in stocks to outperform over time.

I missed out by not investing with this exceptional manager, but I'm ok with that.

4. Manageable fund size

Size is the enemy of fund performance.

There are many stories of funds which perform well, win awards and get loads of media coverage, resulting in a surge of fund inflows, only for performance to then fade, with money quickly heading out the door.

Look up Neil Woodford in the UK or Bruce Berkowitz in the US. And there are plenty of Australian examples too.

That's why I prefer to invest in funds that don't get too big. Those that prioritise performance and clients over fees.

5. Low profile preferred

I prefer a low-profile fund over a high profile one. Part of the reason is that it can prevent fund size from becoming an issue. The bigger reason is that I like managers who focus on investing rather than marketing.

It's why fund managers farming out back-office administration and marketing to the likes of Pinnacle and GSFM (both sponsors) makes sense for fund managers. The managers can get on with the job of investing money rather than worrying about the hundreds of other tasks needed to run a funds management firm.

This isn't an exhaustive list, though I've neglected to mention one thing and that's fees. That's because I think good funds are worth paying up for.

How to spot red flags in funds

How can you avoid funds that end up being duds? Here are five red flags that I look out for:

1. Massive outperformance

If a fund shoots the lights out, it can be a red flag. The fund may have had a certain style that gained favour. Or they could have run a concentrated portfolio where huge gains came from a few stocks. Or they could have employed leverage to juice returns.

Think of "The Big Short" stars such as John Paulson and Michael Burry, who took huge bets shorting credit default swaps prior to the GFC, yet after those life-changing gains their track records since have been found wanting.

2. Changing of investment style/process

If a fund changes its investment style, philosophy, or process, it can be a big red flag. It can mean the fund is struggling and is trying to dig itself out of a hole. Unfortunately, that rarely works.

3. Big increase in funds under management

As mentioned above, a sudden, large influx of money into a fund can spell trouble for future performance.

4. Inappropriate benchmarking of returns

I used to see it more, but there have been Australian equity funds that benchmark their performance against the cash rate, rather than the ASX 200 or 300. If I see this from a fund, I steer well clear of it.

More often, I've seen funds switch the benchmarks that they measure their performance against. They may swap the ASX 200 for the ASX 300 or the ASX All Ordinaries index. That's another red flag for me.

5. Lack of transparency on returns

I don't like funds that only show 'gross returns' rather than 'net returns'. Investors don't pocket gross returns, they pocket net returns, and it should be disclosed as such.

Another red flag for me is funds that include their returns at a prior firm. For instance, a boutique firm may quote returns not only at the boutique but from when the same team worked at a larger firm prior to that. It's a perfectly legal practice though I'm not a fan.

Let me know your views on active funds and whether I've missed any key points.

(Full disclosure: Firstlinks has a large group of sponsors, many of whom are fund managers. Also, our parent company, Morningstar, does fund manager ratings for a living, based around its five-pillar framework: process, performance, people, parent, and price (the '5'Ps'). Therefore, it's a sensitive topic and I'm bound to get hate mail. The views expressed are mine alone and based on my time as a former fund manager, stockbroking research analyst, and now Firstlinks editor.)

James Gruber is Editor of Firstlinks.

Key factors behind the housing supply crisis

Michael Matusik

We all know that Australia is in the grips of a severe housing undersupply, with demand far outstripping the number of new homes being built.

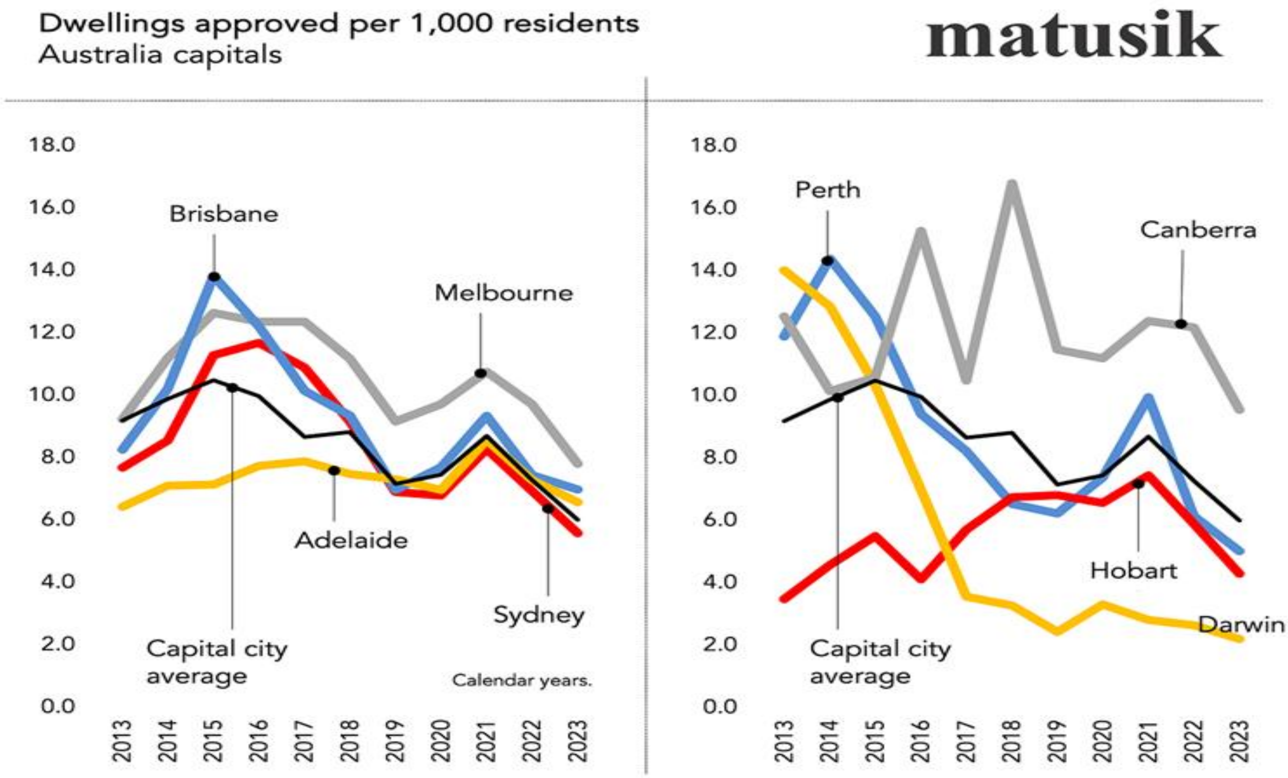
Nationally, new dwelling approvals and completions have fallen sharply in recent years, despite a return to post-pandemic levels of population growth.

The result?

Higher prices, rising rents, and increased affordability challenges.

Government targets suggest Australia needs at least 240,000 new homes per year to meet demand. However, current build rates are falling well short, with recent annual completions hovering around 170,000 to 180,000.

My chart shows that last year Australia approved just 6 new homes per 1,000 residents. This level of supply was 10 per 1,000 residents a decade ago. That's a 40% decline!



When it comes to the capitals only Canberra and Melbourne are batting higher up the list, whilst Adelaide, Brisbane and Sydney are in the middle order and way off the pace are Hobart, Perth and especially Darwin.

Many want to blame this widening mismatch between new housing supply and demand on high immigration. This is only part of the issue. My chart shows that even in areas with middling population growth these laggards are struggling with new housing supply.

So what's going on?

Several factors are stalling new housing supply.

Construction costs have soared, up 30 to 40% in some areas post-pandemic, making many projects financially unviable. Whilst built cost growth has slowed down, they are still rising and rarely fall. We are stuck with high build costs for a long time.

A shortage of skilled labour is said to be further delaying builds, while interest rate hikes have made it tougher for developers to secure financing. Yet I am not that convinced about labour shortages and that is a topic for a future Matusik Missive.

And last but least, planning and zoning restrictions in major cities and regions are also limiting supply, with approvals taking years to process. This for mine is the killer.

And housing undersupply is most evident in the rental market.

Vacancy rates in major cities are at record lows, often below 1%, pushing rents higher. Meanwhile, the cost of buying remains out of reach for many first-home buyers.

Addressing the issue requires faster approvals, better infrastructure planning, increased private sector investment, and support for alternative housing models like modular forms of construction and backyard homes.

Built-to-rent has a role but needs to spread beyond apartments and into the townhouse and small-lot home space. Most built-to-rent housing in American, for example, are detached homes, then townhouses followed by, a distant third, apartments.

And when looking at the world stage, Australia is batting below many other countries when it comes to new housing supply. Those countries with limited new housing supply are facing (or have seen) a change in national government.

Homes per 1,000 residents, selected countries

Country	2010 or 2011	2021 or 2022	Change	
Italy	557	598	41	7%
France	517	591	74	14%
Spain	539	563	24	4%
Germany	505	518	13	3%
Japan	476	492	16	3%
Türkiye	396	478	82	21%
England	430	441	11	3%
United States	425	428	3	1%
Canada	424	426	2	0%
Australia	**403**	**420**	**17**	**4%**
Ireland	436	417	-19	-4%
New Zealand	395	396	1	0%
Brazil	294	344	50	17%
Average	**437**	**460**	**23**	**5%**
OECD.				

Source: OECD, Matusik Missive

Amazingly parts of Europe can build more new homes per head of population than we can. If Italy, France, Germany and Spain can build at rates some 25% higher Australia, surely we can do better.

But maybe we won't. The same 'head in the sand' attitude applies to our energy needs down under.

Yet without action, affordability pressures will continue to mount, locking more Australians out of home ownership.

A word of warning. Millennials, Gen Z and some of the younger Gen X set will get even when their time comes. Watch these generations tax super funds in the future and other older generational financial windfalls when it comes to their time to rule.

Paying down the national debt will only be part of their reasoning. Getting even - i.e. being locked out of the housing market - will be a main reason for this revenge.

Michael Matusik is an Australian housing market specialist, providing commissioned housing and demographic market reviews, updates and outlooks for over 30 years, and shares his thoughts in his blog, Matusik Missive.

Electricity transmission is Australia's next problem

Peter Warnes

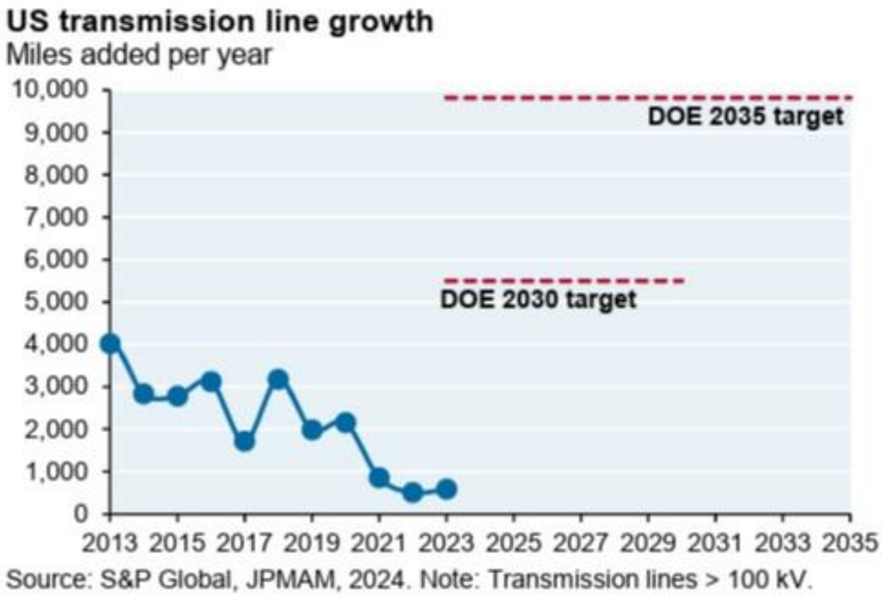
The main issue in Australia's election has been around cost-of-living, which is closely linked to the cost of energy. Previously, energy discussion centred on oil and the security of supply and the cost of downstream refined products of petrol and diesel. Any movements fed into transport and manufacturing costs which were passed through to the consumer, whether positive or negative. Headline inflation was affected.

Things have changed. Now the security and price of electricity has become the focal point with energy transition away from fossil fuels and the setting of future zero emission targets. This, while the significant growth of artificial intelligence and associated data centres and other digital services has added a meaningful new driver of demand for reliable 24/7 energy. The Future Made in Australia economic plan along with federal and state government plans to build over 1.5 million new homes, likely 100% electricity powered, by 2030 will add to electricity demand.

This change will require a significant increase in investment across generation and transmission, to a lesser extent distribution. Once generated from the combination fossil, renewable, and hydro sources, the efficient and uninterrupted transmission and distribution of electricity is critical for economic growth. Generated electricity must reach households and commercial and industrial consumers via efficient transmission and distribution networks. Transmission networks, the grid, have a defined capacity. Increased electricity demand will require a significant increase in transmission capacity. Transmission is the vital link between generation and distribution.

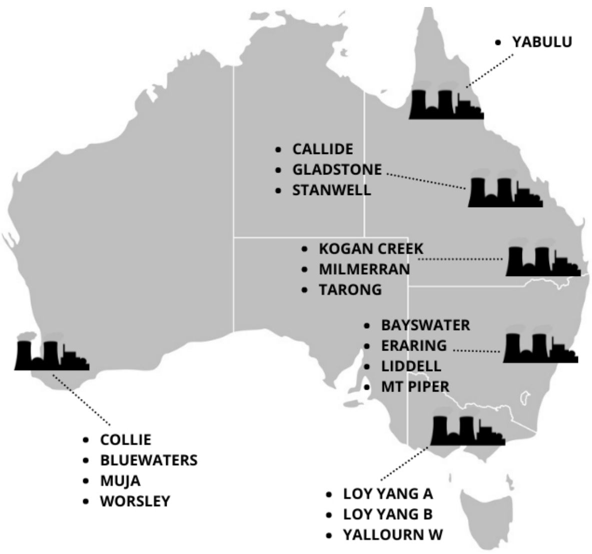
The issue has become a political football

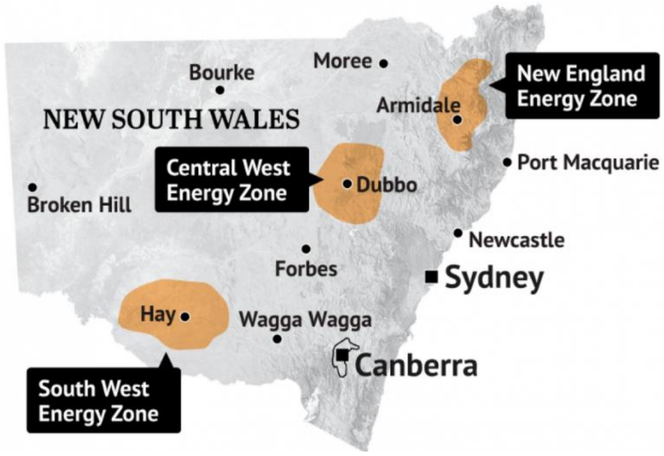
Both the US and Australia are well behind the eight ball as are most other countries. In Australia, electricity generation has become deeply politicised, and its transmission is dividing communities as towers and power lines march across private land, while land-grabbing renewable generation gobbles up thousands of productive acres. Shamefully, the environmental issues are being bypassed, as the cheapest route is often selected.



In Australia, the energy transition from fossil fuels, mainly coal, to renewables has seen a seismic change in the location of generating capacity. Our coal-fired power stations are located close to coal mines, mostly down the east coast. Over 90% of our population live within 100 kilometres of the coastline. The five mainland state capital cities account for almost 65% of our population, dominated by Sydney, Melbourne and Brisbane. In the past, households and industry has been well serviced by the electricity transmission and distribution networks. Transmission was relatively short haul.

The gradual closure of coal-fired power stations and the growth of renewables, mostly solar and wind has altered the generation map as renewable zones are established in regional areas well away from the coast and most consumers.





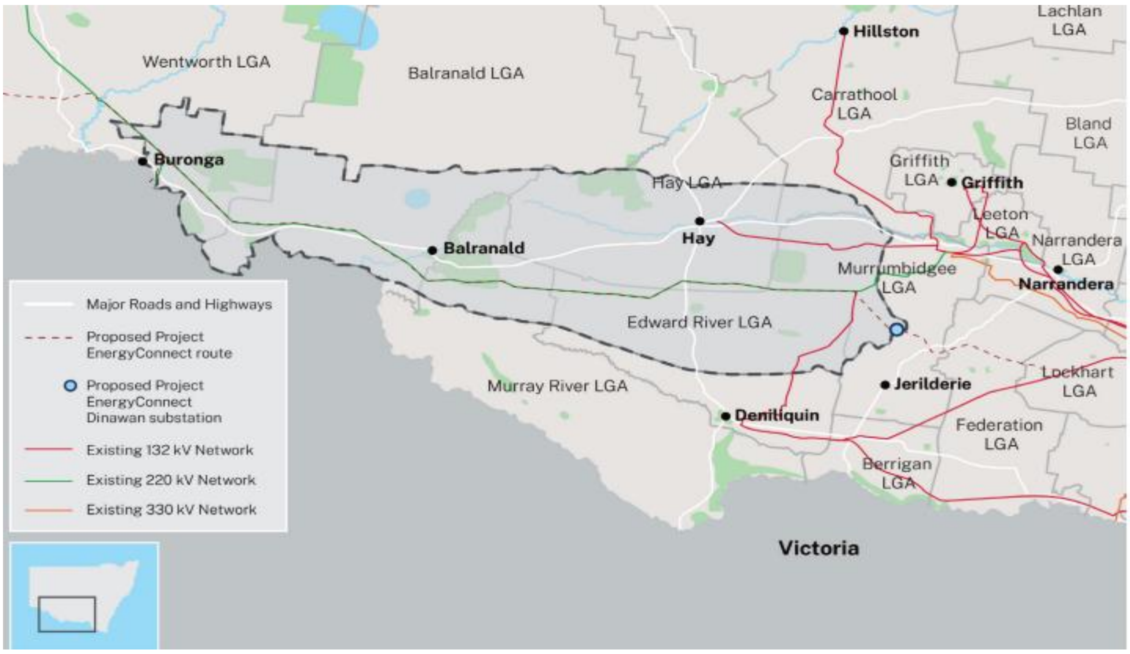
The Climate Change and Energy Minister Chris Bowen has a target to add 10,000 kilometres to the national transmission network by 2030. Put in context, it is 2.5 times the east/west distance of the Australian mainland or 11 hours flying in an A380 which has a cruising speed of 910 km/h. It is highly unlikely the target will be achieved, and the cost will be in the tens of billion.

A NSW case study

A prime example is the 365km HumeLink in southwest New South Wales, which is well behind schedule and the cost estimate has blown out to almost $5 billion to ultimately connect with Snowy Hydro 2.0, where the cost has soared more than sixfold from an original estimate of $2 billion to well over $12 billion.

The issues in the South West Renewable Energy Zone (SWREZ) of New South Wales are symptomatic of the problems facing energy transmission. Recently, Origin Energy won the transmission access for the zone and is in the process of tying up most of the capacity for its Yanco Delta project. It is one of Australia's largest proposed wind projects with 1.5 GW wind farm (208 turbines) and an 800 MWh battery strategically located next to key transmission infrastructure. It is located some 530 kilometres from Sydney versus coal-fired power stations Eraring (120) and Mt Piper (160). Both Bayswater and Liddell stations in the Hunter Valley have been closed. Eraring generates approximately 25% of NSW's power requirements.

Should Yanco proceed, several other proposed wind and solar projects in the SWREZ would become stranded if completed. Origin could divest up to 80% of Yanco, but capital partners may be thin on the ground. Management is widening its strategy to expand renewable energy and storage in its portfolio, while limiting ownership.



To address the transmission shortfall, potentially stranded developers are now engaging with data centre developers to relocate within the SWREZ, with the words from Francis Bacon's essays of 1625 ringing, "If the mountain will not come to Mohammed, Mohammed will go to the mountain".

Chris Bowen has repeatedly pointed to the jobs created by the investment in renewable generation and transmission. The ongoing issue is where is the skilled labour coming from and where will they be housed during the construction phase. Regional tourism is already being impacted with transient workers taking accommodation normally satisfying tourist demand.

Australia's energy transition will take decades to complete. Gas generation backed up by and efficient transmission pipeline network throughout the eastern states and South Australia is the ideal transition fuel. Gas generated electricity from well-located plants feed into the existing transmission grid. New renewable generating capacity in the far-flung renewable energy zones will require transmission capacity to be added. This will take years and be very costly.

Transmission issues aside, when discussing renewable generating capacity, the focus should be on its availability. In normal circumstances and with scheduled maintenance, coal and gas plants can generate electricity over 90% of the time. For solar the availability (sunlight) is near 45% and optimal wind speeds occur about 50% of the time. There are over 95 million solar panels in place in Australia and recycling is not an easy process. Less than 20% of material can be recycled. These along with the disposal of used wind turbine blades could be the next environmental issue to be faced.

Electricity costs are likely to remain elevated. Government subsidies are a band aid on a meaningfully larger problem.

Peter Warnes is a market strategist and commentator, and former head of equity research for Morningstar in Australia. He was also the founder and long-term editor of Your Money Weekly before retiring in 2024 after a career spanning six decades.

Family trusts and relationship breakdowns

Greg Russo

In earlier articles I briefly analysed and discussed some of the benefits that family trusts and testamentary trusts can play in a well-thought-out estate plan.

This article considers the current treatment of family trusts[1] and discretionary testamentary trusts (referred to in this article collectively as 'trusts') in connection with property disputes arising from relationship breakdown, and illustrates that the commercial asset protection benefits that trusts offer in other settings are more limited when considering investigation that accompanies such disputes.

Because this subject matter is so broad, I have made this article a 'grab bag' of things that readers might think about when assessing the likely impact on trust administration of relationship breakdown.

Any decision involving trusts – either at the planning stage or post separation – should be accompanied with bespoke legal, accounting and financial advice.

Why understanding trusts is so important … right now

The number of trusts in Australia has been increasing steadily since the 1970s, and in particular since the 1990s. Furthermore, about 80% of trusts in Australia are discretionary. There is accordingly a reasonable prospect that a future relationship breakdown may involve a consideration of the division of trust assets.

Why trusts are so popular

There are many reasons why trusts are so often used in a financial structure:

- The flexibility of trusts may allow a trustee to allocate future income between a class of beneficiaries in a flexible and tax-effective manner.
- trusts can offer asset protection:
    - against the insolvency of a trustee, a beneficiary or an appointor; and
    - against beneficiary vulnerability; and

It is also often generally assumed that trusts can offer asset protection against the financial consequences of relationship breakdown, and that assets within a trust structure, possibly owned by one party to a relationship prior to the commencement of the relationship, will be preserved for that party subsequent to the termination of the relationship.

That assumption is not always correct. It is generally more difficult to protect assets from the risk of future relationship breakdown using trusts than it is to protect assets from the risk of future beneficiary insolvency.

However, there remains merit in considering the extent of the protection that can be achieved on a case-by-case basis, and forward planning accordingly.

Trusts and relationship breakdown – the court's power

The relationship between property claims arising from relationship separation and the status of trust assets is a complex area of the law. By way of a very brief summary:

- The court has the power, when considering property claims under the Family Law Act 1975 (Cth) (**FLA**), to make such order as it considers appropriate to alter property interests with respect to the *property of the parties* to a marriage or de facto relationship.
- Assets that are held within a trust structure may, depending on the circumstances, be determined by the court to be:
    - property of the parties – and therefore capable of adjustment between the parties
    - financial resources of one of the parties, and therefore not capable of direct adjustment between the parties but a capable of having an impact on the adjustment of other assets deemed to be property of the parties; or
    - neither property nor financial resources.

The critical assessment therefore is whether the assets owned by a trust will be regarded by the court as property of the parties or not.

If the court regards trust assets as *property of the parties* it will effectively "look through" the trust structure on a case by case, and will then have power to make orders dividing those assets between the parties.

The Court's power under the FLA is not unfettered, and its determination will be formulated on a case-by-case basis.

Trusts and relationship breakdown – the court's approach

Recent Family Law decisions dealing with the treatment of trust assets confirm the broad powers that the court has to:

- investigate the status of trust property; and
- to make orders in respect of the trust assets in appropriate factual circumstances.

Some of the themes that emerge from the case law follow:

Trust control

The manner in which a trust is controlled is critical to the court's characterisation of trust assets. For example:

- Where a wife had voluntarily relinquished control of the trust, but retained a degree of control of the trust, the court concluded that the trust assets should be treated as property of the marriage;[2] but
- Working in businesses controlled through trusts without control, but with promises of future benefits, was insufficient for a finding to be made that trust assets were property[3]

The purpose of a trust

The identifiable purpose of a trust (which trustee discretion must be aligned with) is also critical to the court's characterisation of trust assets. For example:

- The will of a wife's deceased father contained a wish that she be provided with an income of $150,000 per annum. The wish was not legally enforceable, but the court accepted that there was a reasonable likelihood that the wife would receive the funds if she requested them because of her close relationship with the estate executors. The trust assets were determined to be financial resources to that extent.[4]

The source of trust assets

The court will also look at the source of trust assets when determining the characterisation of those asset. The greater the proximity between the parties' mutual endeavours and the trust assets, the more likely the assets will be regarded as property of the parties.

Summary

Whilst the court proceeds on a case-by-case basis in assessing the status of trust assets:

- control over trust assets exerted by a party to the relationship; and
- a trust purpose aligned with the benefit of the relationship; and
- Trust assets sourced from the endeavours of the parties to the relationship

are more likely to result in the court determining that trust assets are available for distribution between the parties.

Conversely:

- lack of control over trust assets by the parties
- a trust purpose aligned with a benefit independent of the parties; and
- Trust assets sourced independently from the parties

are more likely to result in the court determining that trust assets are not available distribution between the parties.

Case study

The following case study[5] demonstrates some of the above considerations.

The husband and a sister were equal shareholders of the trustee of a testamentary trust (**Trust**) established under the Will of the husband's father. There were three directors of the corporate trustee at arm's length to the husband.

The husband and his three siblings received income from the trust. There was no history of distributions of trust capital.

It was accepted that the purpose of the Trust was to pass the capital to the testator's six grandchildren upon each of them attaining the age of 25 years.

The wife sought to have the trust assets treated as the husband's assets, on the basis that if he could convince his sister to appoint him as director of the corporate trustee, he would have control of the trust.

The court rejected the wife's arguments because:

- The husband did not control the trust; and
- the trust assets were not, and would not become the husband's - but were genuinely held for the benefit of the deceased's grandchildren.

Conclusion

It can appear that the court often ignores trust structures when determining property disputes arising from relationship breakdown.

Whilst that is not the case, case law demonstrates the breadth of the powers that the court wields in investigating trusts in the context of such claims, and whilst those powers are not exercised without reason, their use continues to evolve, and the outcome of a particular matter can be difficult to predict.

Investors utilising trusts will benefit from ensuring that their advisors:

- have a thorough understanding of trust law; and
- have given consideration to trust control, beneficiary rights, and trust purpose in each case.

As with other aspects of commercial life, specific and expert legal, accounting, and financial advice is recommended when considering using trusts within a financial structure, so that benefits can be maximised and pitfalls avoided.

[1]'Family Trusts' are a subset of the wider class of 'Discretionary Trusts' being Trusts in which the Trust administrator, the Trustee, generally has a wide discretion to distribute Trust income and capital amongst a wide class of beneficiaries And by extension discretionary Testamentary Trusts
[2] Beeson & Spence [2007] FamCA 200
[3] B Pty Ltd v K (2008) FLC 90-380
[4] Hall V Hall [2016] HCA 23
[5] Peat & Northup [2020] FamCA 1123

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Selling your holiday home? You may be able to pay less tax

Brooke Logan

Many people buy a holiday home when the kids are young but as time goes by, they find they're using it less and less. Recent changes to property taxes in Victoria have had some property holders questioning whether to maintain a holiday home. With the potential for other states to also play with property taxes, it is timely to consider the implications and opportunities individuals may have if they are looking to sell their holiday home.

Capital gains tax

The first thing to consider is capital gains tax (CGT). CGT generally applies to properties acquired on or after 20 September 1985 unless the property is eligible for a full or partial main residence exemption.

Usually, a property ceases to be your main residence when you stop living in it. However, for CGT purposes, you can continue treating a property as your main residence for up to six years if you rent it out, or indefinitely if you didn't use it to produce income. A 50% CGT discount is also available for eligible taxpayers if the property has been owned for more than 12 months prior to sale. Importantly, you can't treat two properties simultaneously as your main residence.

If you are a foreign resident when you sell your holiday home, you may not enjoy the same CGT concessions. Generally, foreign residents are not entitled to the main residence exemption for property sold after 30 June 2020 unless they satisfy the life events test. Foreign residents may also not be entitled to the 50% CGT discount on assets acquired after 8 May 2012, with any discount apportioned based on their period of Australian residency.

Strategies to consider if CGT applies

Individuals who are not eligible for a CGT exemption on the sale of their holiday home can end up with a hefty tax bill if the property value has significantly increased.

In these cases, considerations may include the timing of the sale, and options to help reduce assessable income.

Some people delay selling their holiday home until after they retire when their assessable income is lower and the capital gain is taxed at a lower marginal rate, but that may not work for everyone.

Another potential strategy, if eligible, is to make a personal deductible contribution (PDC) to super using a portion of the sale proceeds, which could assist with reducing assessable income. This could be particularly attractive if the person isn't working and has the full concessional contribution cap of $30,000 to use and isn't subject to Division 293 tax.

Importantly, from age 67 to 74, individuals must meet the work test (gainfully employed for at least 40 hours in a 30-day period during the financial year) or work test exemption (have a total super balance of less than $300,000, having met the work test in the previous financial year) to be able to claim a deduction on a personal contribution.

Those with less than $500,000 in super at the end of the previous financial year, can increase their concessional cap even further by using any unused concessional cap from the past five years.

> ***Example***
>
> *Rose, age 62, sold her holiday home in February 2025. She is not eligible for a CGT main residence exemption. She received net sale proceeds of $800,000 and has an assessable capital gain of $150,000 after the 50% discount. Let's assume her only other taxable income received in the 2024-25 financial year is $10,000 of investment income.*
>
> *Rose retired a year ago and on 30 June 2024 had a Total Super Balance of $420,000. Her MyGov statements show her unused concessional cap from the past 5 years is $60,000, plus the full 2024-25 cap of $30,000. She could use $90,000 of the sale proceeds to make a PDC and reduce her assessable income in the 2024-25 financial year as follows:*
>
> *- Assessable income $160,000*
> *- less PDC ($90,000)*
> *- Net assessable income $70,000*
>
> *For completeness, Rose's superannuation fund will deduct 15% contributions tax on the $90,000 that she makes as a PDC.*

Contributing the proceeds of a property sale to super

For those close to or in retirement, it can be beneficial to use sale proceeds from a holiday home to boost super, leading to a higher nest egg from which to draw a tax-free retirement income.

Individuals aged under 75 with less than $1.66 million in super on 30 June 2024 could potentially make an after-tax or non-concessional contribution (NCC) of up to $360,000 in the 2024-25 financial year. There is no requirement to meet the work test.

> ***Example***
>
> *Returning to our previous example, Rose has less than $1.66 million in super and has not made any NCCs over the annual cap in the past 3 years. She could therefore use $360,000 to make a NCC into her super in addition to the personal deductible contribution. Depending on the timing, she could look to make a NCC of $120,000 before 30 June 2025 and trigger the bring forward in 2025-26, thus getting a higher amount into super.*

Another potential avenue to contributing more to super is via a downsizer contribution if the person meets all the eligibility criteria. Individuals aged 55 and older can potentially contribute up to $300,000 from the sale proceeds of their property into super. Importantly, they must have owned the property for at least 10 years and the sale proceeds must be eligible for at least a partial CGT main residence exemption (or would be entitled to the exemption if it was a CGT rather than a pre-CGT asset, acquired before 20 September 1985). Note a person's total super balance is irrelevant when determining eligibility to make a downsizer contribution and they can only use the downsizer contribution once.

Note that contributing to super may not be the best solution for everyone. Individuals with surplus proceeds from the sale of a holiday home may also want to explore non superannuation investment opportunities. This is pertinent for those who are ineligible to contribute to super or are perhaps several years away from retirement and need access to their money. A financial adviser can assist in guiding with these decisions.

Get the right advice

Selling a holiday home can have tax implications, which are best discussed with a lawyer or accountant. There may be opportunities to utilise the proceeds to boost your retirement nest egg within or outside super. However, everybody's circumstances are different and warrant speaking to a financial adviser early about the appropriate options.

Brooke Logan is a technical and strategy lead in UniSuper's advice team. UniSuper is a sponsor of Firstlinks. Please note that past performance isn't an indicator of future performance. The information in this article is of a general nature and may include general advice. It doesn't take into account your personal financial situation, needs or objectives. Before making any investment decision, you should consider your circumstances, the PDS and TMD relevant to you, and whether to consult a qualified financial adviser.

Why it's time to revisit the case for non-US stocks

Lucas Klein

After more than a decade of outperformance, US stocks have come to dominate many equity portfolios, as enthusiasm for artificial intelligence propelled Magnificent 7 tech stocks higher and U.S. growth outpaced peers.

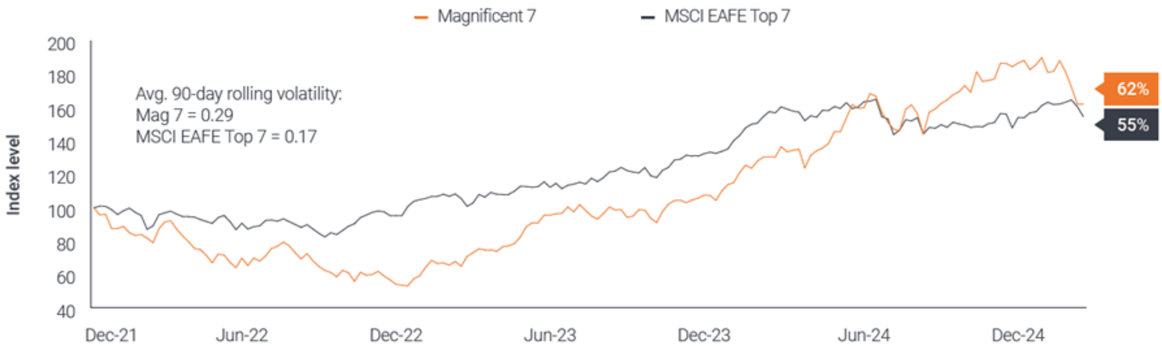
But outside the spotlight, a select group of non-US equities has quietly - but decidedly - made a case for itself. Each year for the past decade, an average of 82 of the top-100 performing stocks in the MSCI All Country World Index were headquartered outside the US, their gains driven by strong business models and secular tailwinds that mattered more than their physical address.[1] For investors wary of allocating away from the US, these stocks suggest a selective approach to non-US markets could pay off, especially given gaps in valuation between US and non-US peers and an equity cycle that is showing signs it could be due for a change.

Pockets of comparable performance

The Mag 7's outperformance in the S&P 500 Index is widely recognised. Less known is that, in some cases, top contributors in non-US indices have also achieved robust gains. In fact, while the Mag 7 returned a cumulative 62% since early 2022 on an equal-weighted basis, the top seven contributors in the MSCI EAFE Index delivered 55%, benefiting in part from less volatility, such as during the broad market pullback in 2022, and lower valuations.

Exhibit 1: Top non-U.S. stocks have benefited from strong fundamentals and lower volatility

Cumulative, equal-weighted total return



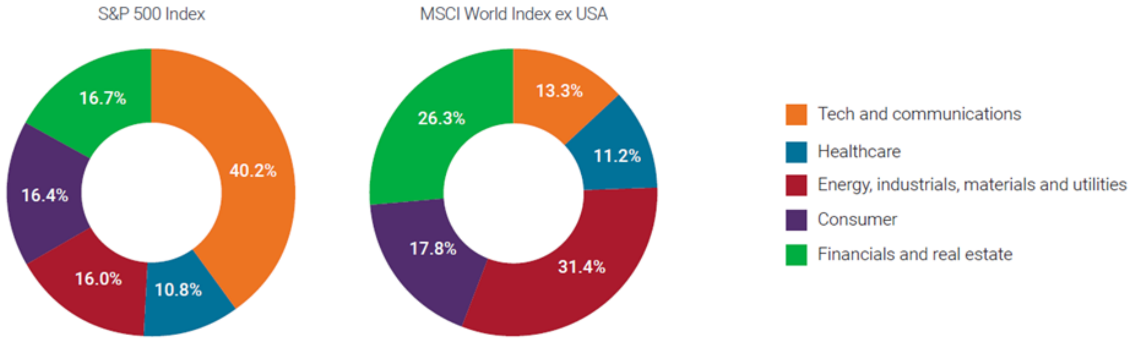
Source: Bloomberg. Data from 31 December 2021 to 14 March 2025. MSCI EAFE Top 7 = Novo Nordisk, ASML, SAP, Toyota Motor Corp., HSBC, Siemens, and UBS. The MSCI EAFE Index is designed to represent the performance of large- and mid-cap securities across 21 developed markets, including countries in Europe, Australasia and the Far East, excluding the U.S. and Canada. 90-day rolling volatility is a statistical measure that quantifies the degree of price fluctuations over 90 days. **Past performance cannot guarantee future results.**

Diversified sources of return

Notably, the leading stocks in the MSCI EAFE were not all tech names. Rather, the group consisted of healthcare, industrials, and financials (as well as tech). This lack of sector concentration provided investors with portfolio diversification and reflected growth drivers besides AI, including rising defense spending, rapid medical innovation, and the end of zero-rate monetary policies.

Exhibit 2: Sector diversification outside of the U.S.

Technology makes up a smaller portion of non-U.S. markets, providing exposure to other sectors



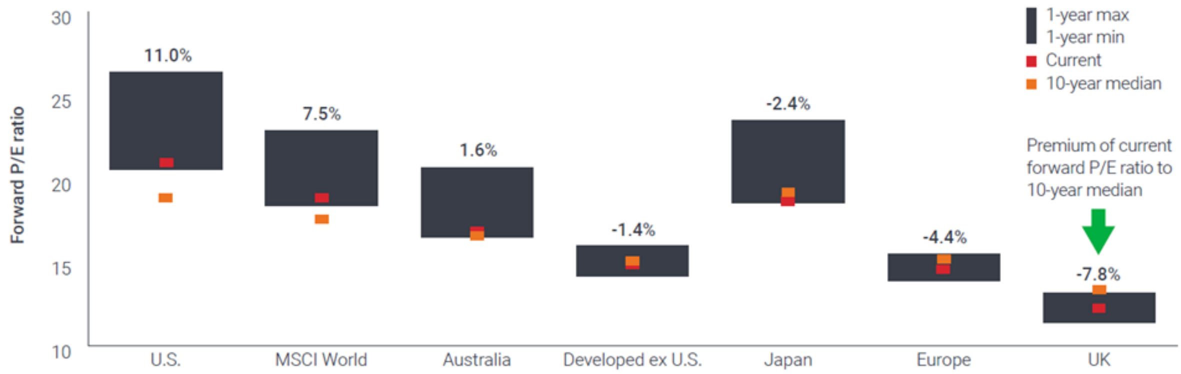
Source: S&P Global, MSCI. As of 28 February 2025. The MSCI World Index ex USA Index captures large- and mid-cap representation across 22 of 23 developed markets countries (excluding the U.S.).

A valuation advantage

Even with recent gains, many top-performing non-US stocks trade at a discount to US peers. Some valuation gap may be warranted given faster economic growth in the U.S. and the potential earnings and productivity advantages of AI. But the premium/discount appears to reflect a market that prioritises geography over fundamentals, even those that are positive. In the MSCI Europe Index, for example, roughly three-quarters of sales are now generated outside the Eurozone, similar to the S&P 500 Technology sector, which does nearly 60% of revenues in non-US markets.[2]

Exhibit 3: U.S. stocks carry multiples well above foreign peers

U.S. stocks trade at a premium to their 10-year median, as well as to non.-U.S. developed markets

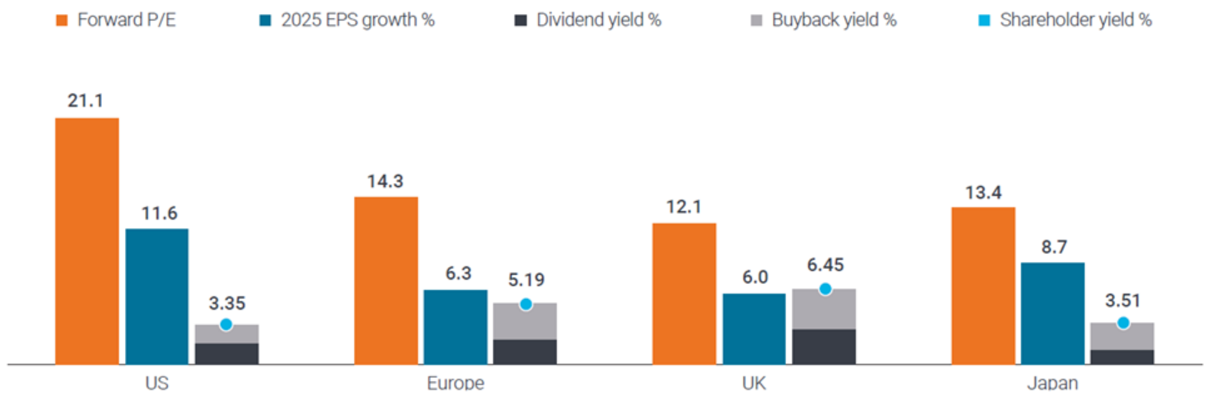


Source: Bloomberg, as of 14 March 2025. P/Es based on forward 12-month estimated earnings. US=S&P 500 Index. Australia=S&P/ASX 200 Index, a market-capitalization weighted and float-adjusted index of stocks listed on the Australian Securities Exchange. Developed ex U.S.=MSCI EAFE Index. Japan=Nikkei 225 Index, which consists of Japan's top 225 companies traded on the Tokyo Stock Exchange. Europe=STOXX 600 Europe Index, which represents large, mid and small capitalization companies across 17 countries of the European region. UK=FSTE 100 Index, an index of the 100 most highly capitalized blue chip stocks listed on the London Stock Exchange.

Attractive shareholder yield

This geographic handicap leaves room for upside, in our view, among high-performing non-US companies. There's also opportunity for capital payouts, with shareholder yield - a measure of dividends and buybacks - typically more generous outside the US. Even in Japan, where corporate governance standards have lagged for years, new reforms are pressuring public firms to unlock more value for investors. In 2024, share buybacks in Japan hit a record high of more than ¥18 trillion (US$121 billion), up from less than ¥10 trillion in 2023. For 2025, the sum is expected to top ¥20 trillion.[3]

Exhibit 4: Non-U.S. equities have returned more capital to shareholders



Source: As of 14 March 2025. Forward P/E based on 12-month estimated earnings and 2025 projected EPS Growth from LSEG Datastream IBES estimates. Dividend yield from FactSet. US = S&P 500 Index. Europe/UK = MSCI indices. Japan = TOPIX. Dividend yield is a financial ratio that shows how much a company pays out in dividends each year relative to its stock price. Buyback yield reflects the percentage of a company's market capitalization returned to common shareholders in the form of stock buybacks. Shareholder yield is the sum of a stock's dividend yield and the percentage of net share buybacks over the previous twelve months.

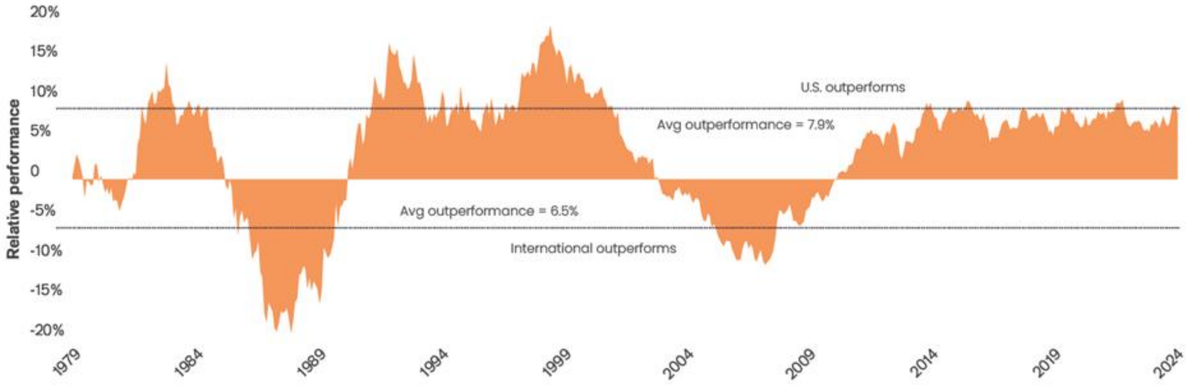
A history of mean reversion

To be sure, non-US markets have faced challenges. In 2024, Germany, the engine of the Eurozone economy, had its second straight year of recession, while cumbersome regulations have raised costs and stifled demand across Europe. Meanwhile, Japan only recently emerged from a prolonged period of deflation and still has a ways to go with corporate reforms. (Nearly half of companies in the Tokyo Stock Price Index still trade below book value compared to less than 4% of US companies.)[4]

But history shows global equity returns tend to be cyclical and that outperformance can flip, often after periods of stretched valuations. Since 1980, US and non-US stocks have consistently taken turns leading markets, with the most enduring US-led periods lasting an average of more than eight years. Should markets keep up the pattern, non-US equities could soon have their comeuppance: US stocks' current run on top has lasted roughly 14 years.

Exhibit 5: U.S./non-U.S. stocks have alternated outperformance

S&P 500 vs. MSCI EAFE five-year monthly rolling returns



Source: Bloomberg. Data from 31 December 1979 to 28 February 2025. U.S.=S&P 500 Index. Non-U.S.=MSCI EAFE Index. **Past performance cannot guarantee future results.**

Not timing the cycle

While it is impossible to pinpoint if or when a rotation might occur, an active approach to non-US stocks could still pay dividends in a diversified portfolio. Over the past decade, 65% of actively managed international funds have outperformed their respective benchmarks on an annualised basis.[5] Meanwhile, structural changes that have started to take hold - from a faster pace of rate cuts and pledges to increase defense spending in Europe to market reforms in Japan - create the potential for differentiated returns (see Case example).

Avoiding recency bias

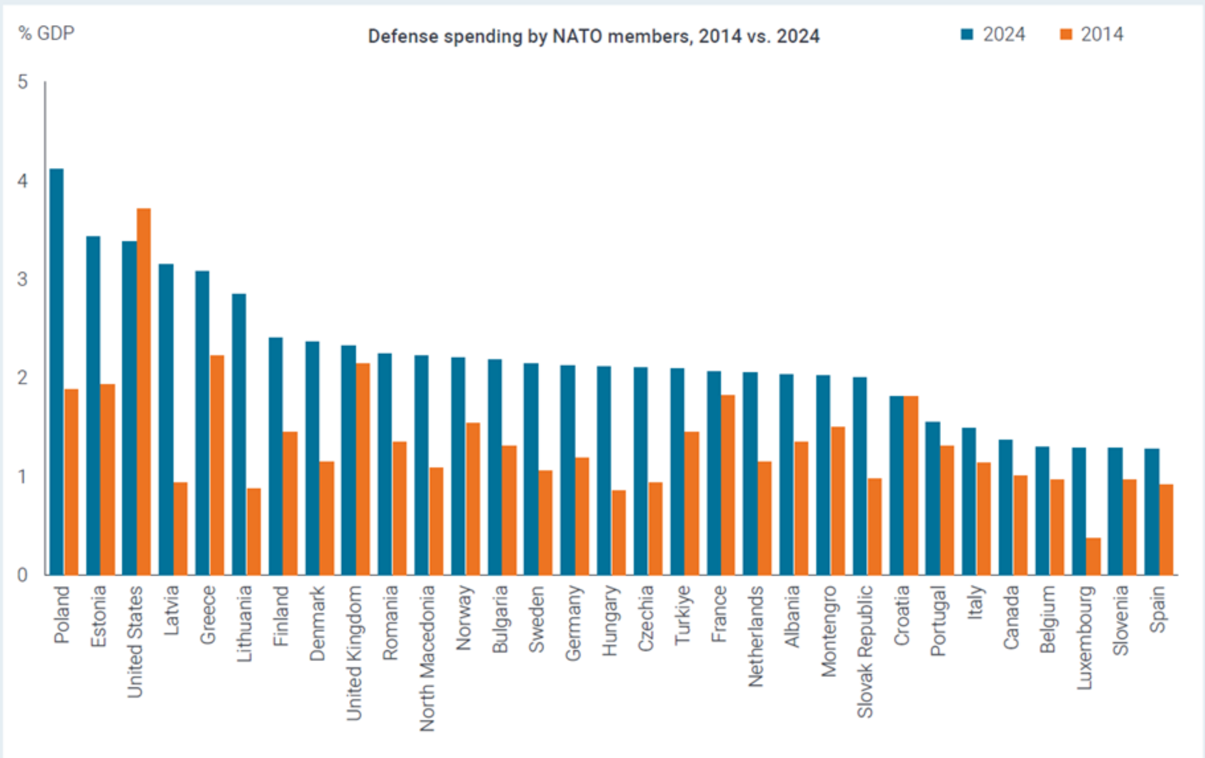
In the end, staying focused on fundamentals could also help investors avoid recency bias, or the tendency to extrapolate recent data points into perpetuity. In fact, historically, allowing recency bias to determine investment decisions would have meant overweighting international stocks in 1990, US stocks in 2000, and international stocks in 2008 - all times when the opposite would have been the better choice.

Case example: European defence

Following the Cold War, defence budgets in Europe experienced little to no growth. But amid new geopolitical tensions and a change in White House leadership, defence spending in the region looks set to accelerate.

Already, countries located near Russia have been dramatically increasing defence expenditures as a percentage of their gross domestic product (GDP). Poland, for example, committed more than 4% of its GDP in 2024, up from less than 2% a decade ago. More recently, Ursula von der Leyen, president of the European Commission, said the EU plans to activate a mechanism that allows member states to substantially increase defence expenditures without having to make cuts elsewhere. She also proposed lending up to 150 billion euros (US$158 billion) to EU governments to rearm amid worries about faltering US support for Ukraine. Some countries have already taken action. Germany's incoming government, for example, recently voted to launch a 500 billion euro ($540 billion) fund to invest in infrastructure projects and amend the constitution to exclude defence outlays from fiscal spending limits.

The shift in policy has helped to lift non-US defence stocks, but with shares having traded at discounted valuations for several years, markets may now only be starting to catch up to the potential for faster growth.



Source: NATO, Defence Expenditure of NATO Countries (2014-2024), 17 June 2024. GDP=gross domestic product. NATO=The North Atlantic Treaty Organization, an intergovernmental transnational military alliance of 32 member states (30 European and two North American). Data excludes Iceland, which has no armed forces.

[1] Morningstar, as of 31 December 2024.
[2] FactSet, as of 31 December 2024. The S&P 500 Technology Sector comprises those companies included in the S&P 500 that are classified as members of the GICS® information technology sector.
[3] Ichiyoshi Securities, The Japan Times, as of 31 December 2024. "Listed Japanese firms' share buybacks hit record in 2024".
[4] Bloomberg, as of 28 February 2024.
[5] Morningstar. Data are for 10-year annualised returns for active foreign large-blend funds versus their benchmarks from 1 January 2015 to 31 December 2024.

Lucas Klein is Head of EMEA and Asia Pacific Equities at [Janus Henderson Investors](). Nothing in this article should be construed as advice. Past performance does not predict future returns. References made to individual securities do not constitute a recommendation to buy, sell or hold any security, investment strategy or market sector, and should not be assumed to be profitable. Janus Henderson Investors, its affiliated advisor, or its employees, may have a position in the securities mentioned.

Should America follow Australia with a sovereign wealth fund?

Dimitri Burshtein

If reports are correct that former Morgan Stanley technology banker Michael Grimes is set to lead President Trump's planned U.S. sovereign wealth fund, or SWF, the administration has chosen a highly credentialled and qualified candidate. But that doesn't make an SWF a good idea. On the contrary, such a fund would pose significant economic risks to American taxpayers and voters and would give future presidents - Democratic and Republican - unprecedented control over the U.S. economy and federal budget.

The US as an atypical candidate

America is about as far from the prototypical SWF nation as a country can be. Most countries with SWFs are smaller nations with substantial fiscal reserves such as Norway, Singapore and the United Arab Emirates. The

U.S. has the world's largest economy with large annual federal deficits and a national debt approaching $40 trillion - about $100,000 a person.

It's always difficult to fund an SWF and generate consistent returns, but all the more so for a nation burdened by such large budgetary issues. An SWF will be effectively debt-financed so long as the U.S. is running large deficits. All money is fungible. Even if Washington ostensibly funds an SWF with revenue from taxes or tariffs, it comes at the cost of more debt because the U.S. government doesn't have a budget surplus to invest. This would make an SWF the economic equivalent of a leveraged hedge fund. To generate positive returns for Americans, it would have to achieve sustained risk-adjusted returns exceeding the government's borrowing rate. That would be exceptionally difficult, especially over the medium and long term.

An American SWF would distort markets and invite political interference. Governments have a poor record of picking economic winners, as seen in failed investments like Solyndra and Fisker Automotive. Government investment funds also tend to drift beyond their original mandates due to misaligned incentives. A prime example is Australia's Future Fund.

Australia is a red flag

Established in 2006 to finance the country's unfunded public pension liabilities by 2020, the Future Fund has yet to allocate a single dollar for this purpose and is unlikely to do so any time soon. The fund either reinvests its returns or spends it on remarkable administrative costs. The fund's staff includes four people who in fiscal 2023-24 made more than a million Australian dollars a year. Meanwhile, government pension liabilities continue to burden taxpayers, costing billions annually while Australia's government debt keeps rising.

Although the Future Fund's returns have generally exceeded borrowing costs, they have lagged behind private counterparts; more so when accounting for the fact that being government-owned exempts the Future Fund from taxes other funds have to pay. Australian taxpayers would have been better off with lower taxes and the freedom to invest or consume as they saw fit.

The flawed justification for keeping the Future Fund even as debt continues to accrue is the mistaken belief that it generates 'free money'. Proponents argue that as long as returns exceed borrowing costs, the fund should continue indefinitely. By that logic, the U.S. government could simply borrow trillions, invest the money, and eliminate taxation altogether. But money is never free and past performance is no guarantee of future performance. If returns are insufficient, taxpayers will be significantly worse off.

The greatest danger of an SWF is political interference and cronyism. The Future Fund is Australia's third-largest investment fund when measured in total assets. This affects asset prices and distorts markets. An American SWF would be even more distortive, potentially becoming the world's largest institutional investor. This would give the federal government enormous leverage over domestic and global markets, enabling it to manipulate markets, businesses and investments.

Politicians have already attempted this in Australia. The Labor government recently attempted to alter the Future Fund's investment mandate to ensure that it 'must' have regard for government priorities. Such changes would affect investment decisions and influence the corporate governance and strategic direction of private companies in which the fund has invested.

A political plaything?

If BlackRock's ESG focus is controversial, imagine the potential for politicians to use an American SWF as a political tool. Even if this now appeals to some Republicans, they should picture what it would mean under a Democratic administration. The rapid fluctuations in mandates alone would cause dangerous market instability and uncertainty. Every four years could bring new demands, leaving investors and businesses with limited ability to make medium- or long-term plans.

A president who can leverage the government's balance sheet strategically to influence private businesses would circumvent congressional authority and further expand executive power. And it would undermine the constitutional separation of powers by weakening Congress's exclusive control over federal spending.

In Federalist No. 69, Alexander Hamilton stressed that the president shouldn't have unilateral control over commerce or the economy. Establishing a U.S. sovereign wealth fund would represent a dramatic shift from this principle, granting the president a previously unimagined authority more akin to that of a monarch - an outcome America's Founding Fathers never intended.

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