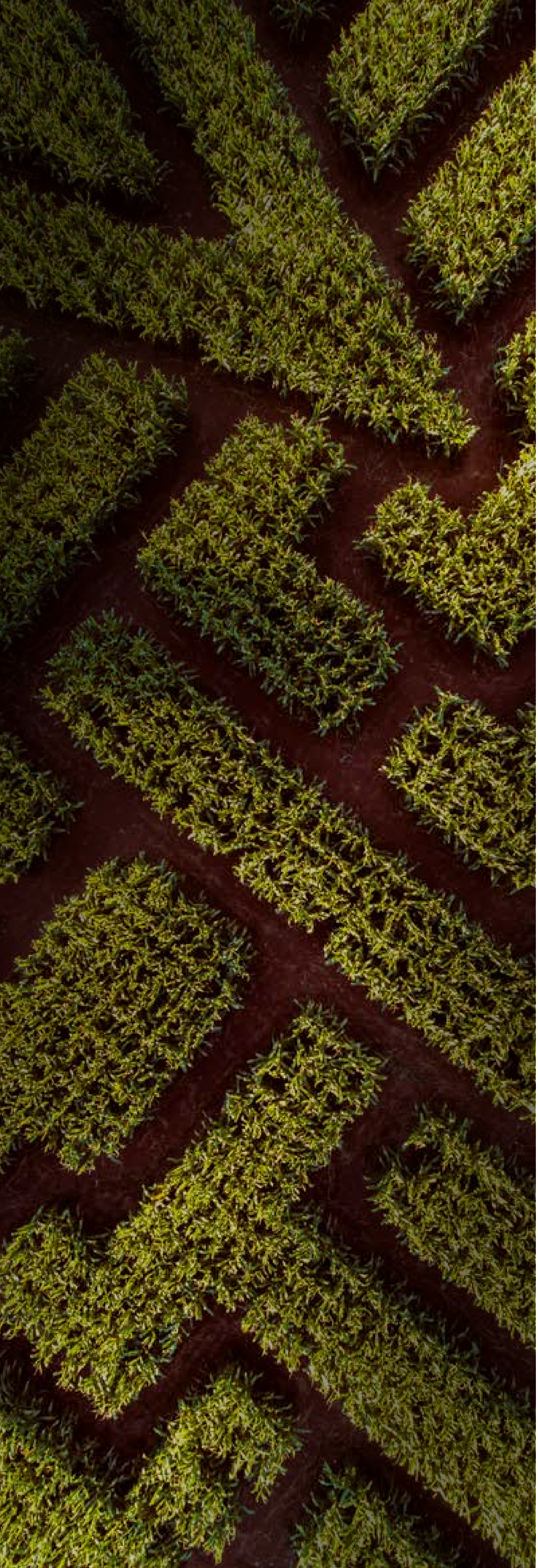
WHITE & CASE

2023 Global compliance risk benchmarking survey

Industry perspectives on the state of compliance today and effective strategies for managing compliance risk within the changing regulatory landscape

KPMG



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Insights from the 2023 Global compliance risk benchmarking survey

In today's fast-paced and interconnected world of global business, a robust and comprehensive compliance program is not merely a choice, but a critical imperative for any organization.

Drawing on the opinions of 201 senior decision-makers from more than 30 countries, White & Case LLP and KPMG LLP's "2023 Global compliance risk benchmarking survey" offers powerful insights into compliance practices across industries worldwide and strategies employed by companies to manage their compliance risks—from anti-corruption risk assessments, third-party management and employee risk awareness to environmental, social and governance (ESG) practices and cybersecurity.

Among the key findings are the importance of regular anti-corruption risk assessments and robust third-party management practices—essential components for creating a culture of compliance and transparency.

Use of data analytics is gaining momentum in compliance programs, though many companies are still in the developmental stage. Testing anti-corruption programs for effectiveness is crucial, as is consistent measurement of hotline awareness and effectiveness, along with addressing employee concerns about hotline integrity.

ESG has increasingly become an area of focus, but our respondents reveal a lack of consistency in addressing ESG risks. This inconsistency in approach can hinder the effective implementation of organization-wide policies and procedures and lead to uncertainty among employees. Clearer guidance and communication are essential in navigating the complexities of ESG and ensuring successful integration into business practices.

Looking ahead, cybersecurity takes center stage as the top compliance priority for the next 12 months, as safeguarding sensitive data and proactively addressing digital threats become more important than ever.

By proactively addressing these compliance challenges, organizations can ensure ethical business practices, mitigate risks and safeguard their reputation in an increasingly complex regulatory environment.

We hope you will find our "2023 Global compliance risk benchmarking survey" an insightful read.

Darryl Lew
Partner, White & Case LLP

Matthew McFillin
Partner, Forensic Services, KPMG LLP

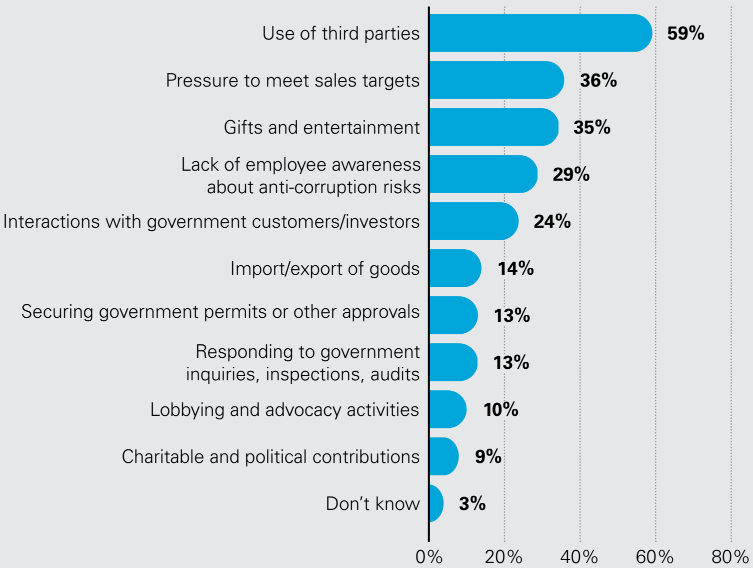
2023 Global compliance risk benchmarking survey:

Key insights at-a-glance

Drawing on the opinions of 201 senior decision-makers from more than 30 countries, White & Case LLP and KPMG LLP's "2023 Global compliance risk benchmarking survey" offers insights into compliance practices across industries worldwide and strategies employed by companies to manage their compliance risks—from anti-corruption risk assessments, third-party management and employee risk awareness to ESG practices and cybersecurity.

Use of third parties cited as the biggest corruption risk companies face

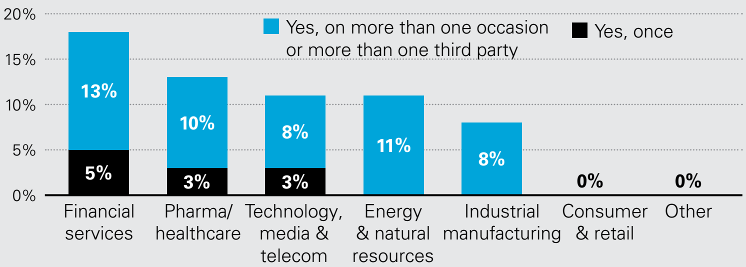
What do you view as the greatest anti-corruption risk facing your company?



In today's fast-paced and interconnected world of global business, a robust and comprehensive compliance program is not merely a choice, but a critical imperative for any organization

Compliance teams under pressure to approve heightened risk third parties

Has your organization's Compliance and Ethics function ever been pressured to approve the engagement of a third party you believe presented an unacceptable corruption risk profile?

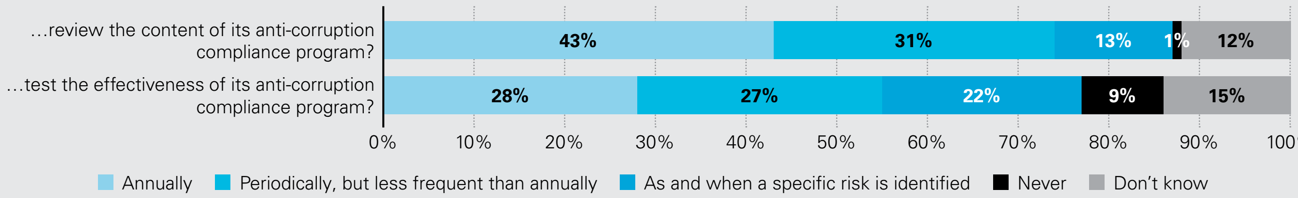


Use of data analytics is becoming more commonplace, but most companies are still developing their approach

How developed is your organization's use of data analytics for compliance risks?	Result
Developing (e.g., patchwork of scalable system processes and manual processes)	45%
Rudimentary (e.g., non-scaling, manual processes and workbooks)	24%
Advanced (e.g., integrated monitoring, reporting and automation across systems)	9%
Planned or aspirational (e.g., not implemented)	12%
N/A – do not utilize data analytics for compliance	9%

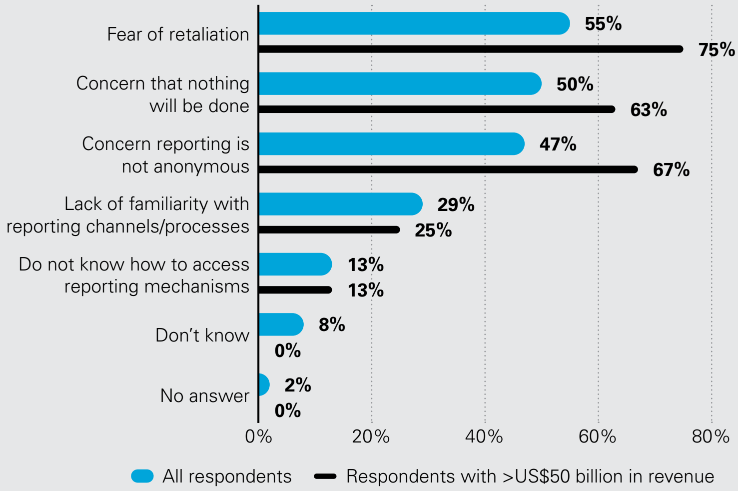
Three in ten respondents state that their anti-corruption programs are not regularly tested for effectiveness

How often does your organization…



Fear of retaliation tops the list of reasons for employee reluctance to use reporting mechanisms

What are the top reasons cited by employees, if any, for concerns with using escalation/reporting mechanisms?

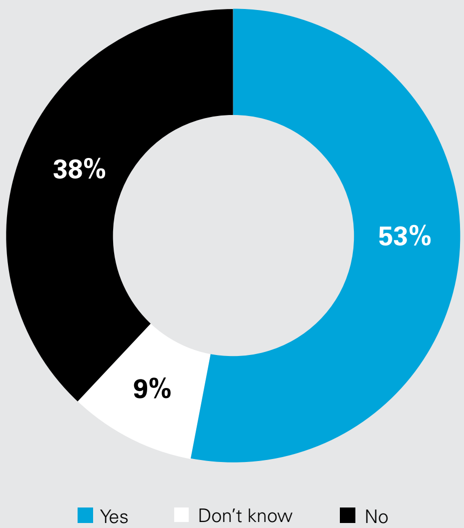


Roughly half of respondents identified the same three reasons why employees are reluctant to report potential compliance issues: fear of retaliation (55%); concern that nothing will be done (50%); and concern that reporting is not anonymous (47%).

Almost four in ten of respondents have not clearly defined ESG

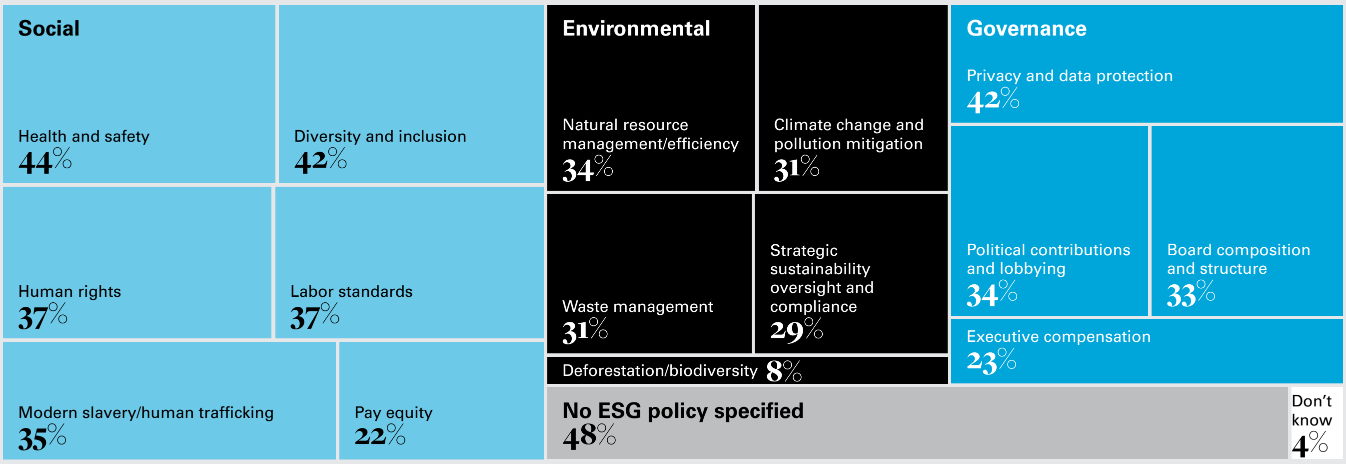
Does your organization…

…clearly define "ESG"?



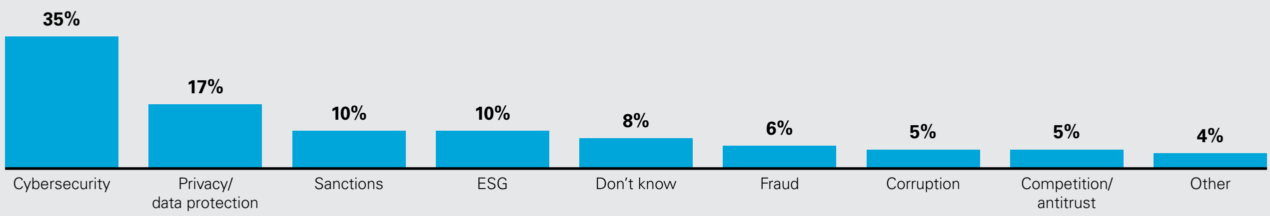
ESG covers a wide range of policies

For which topics does your organization have policies and procedures to address ESG risks?



Cybersecurity tops the list of compliance priorities for the next 12 months

What is the biggest compliance issue facing your organization in the following 12 months?



ABC risk assessments

KEY FINDINGS

■ Most companies conduct regular anti-bribery and corruption (ABC) risk assessments ■ Companies conducting anti-corruption risk assessments report more engaged boards ■ Use of third parties cited as the biggest corruption risk

The risk assessment process is important to establishing a well-designed and effective compliance program tailored to the unique risks a particular company faces. The risk assessment achieves a number of important compliance objectives for a company, including:

- Fostering discovery of relevant risks, processes and controls
- Educating leadership about compliance concerns
- Promoting preventive and early detection strategies over reactive strategies
- Identifying business strengths and stakeholders
- Facilitating satisfaction of corporate director obligations

MOST COMPANIES CONDUCT REGULAR ANTI-CORRUPTION RISK ASSESSMENTS

More than three-quarters of respondents (79%) conduct documented anti-corruption risk assessments, and almost half (48%) conduct these assessments annually or more frequently.

Almost one in five companies (18%) with fewer than 10,000 employees did not conduct an anti-corruption risk assessment and do not plan to conduct one.

Companies in the energy & natural resources and pharma/healthcare industries are most likely to conduct risk assessments, with 94% and 93% of respondents in these industries, respectively, conducting risk assessments.

Companies in the financial services and technology, media & telecom industries were comparatively less likely to report that they conducted (15%) or planned to conduct (17%) risk assessments.

79%

More than three-quarters of respondents (79%) report conducting documented anti-corruption risk assessments

How often does your organization conduct a documented anti-corruption risk assessment?

Annually	47%
On an ad hoc or irregular basis	17%
At regular intervals, but less frequent than annual	14%
More frequent than annually	1%
N/A – no risk assessment planned or performed	11%
Don't know	9%

Source: 2023 Global compliance risk benchmarking survey

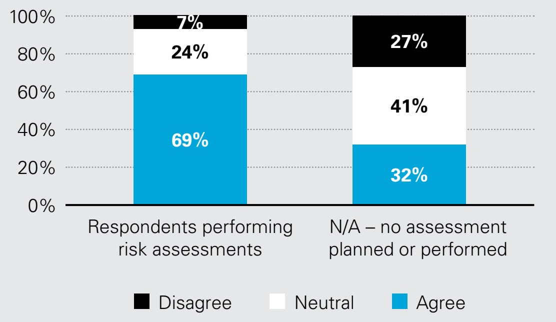
COMPANIES CONDUCTING ANTI-CORRUPTION RISK ASSESSMENTS REPORT MORE ENGAGED BOARDS

Anti-corruption risk assessments are a foundational element of an effective compliance program. They help companies identify and prioritize risk and provide an important means of communicating internally, including with senior management and the board, about the anti-corruption compliance program and how best to deploy resources to manage and mitigate risk. Having senior management and the board appropriately informed about and engaged on compliance issues is important in establishing and maintaining the company's overall culture of compliance and "tone at the top."

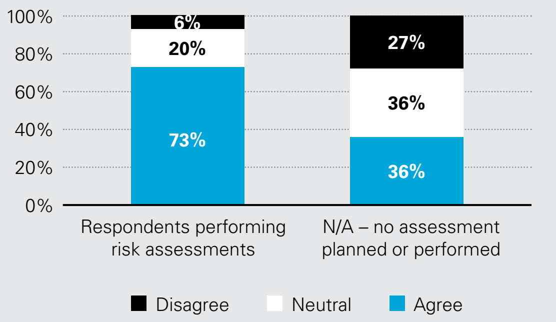
> **The risk assessment process is important to establishing a well-designed and effective compliance program**

Our organization's board is adequately engaged in discussions about our…

…anti-corruption compliance program and resources



…anti-corruption risks



Source: 2023 Global compliance risk benchmarking survey

Our results show that respondents that perform risk assessments were more than twice as likely to agree with the proposition that their boards are adequately engaged with respect to their anti-corruption compliance programs, resources and risks. Conversely, respondents not conducting anti-corruption risk assessments were approximately four times more likely to disagree with the proposition that their boards are adequately engaged with these topics.

USE OF THIRD PARTIES CITED AS THE BIGGEST CORRUPTION RISK COMPANIES FACE

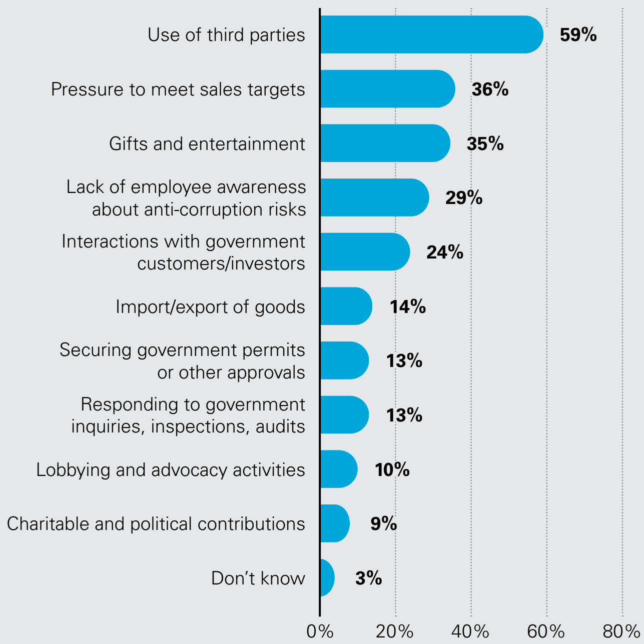
Use of third parties is seen as the most significant corruption risk (59%) among respondents.

For all industries other than financial services, use of third parties is seen as the biggest risk. Companies from the pharmaceuticals/healthcare industry and the technology, media & telecommunications industry consider this risk to be particularly significant, scoring 83% and 72%, respectively.

As the size of the organization increases (both by revenue and number of employees), it is more likely to consider the use of third parties as the biggest corruption risk. This may be because larger entities engage with a wider range of third parties.

Use of third parties is seen as the most significant corruption risk (59%) among respondents

What do you view as the greatest anti-corruption risk facing your company?



Source: 2023 Global compliance risk benchmarking survey

Third-party management

KEY FINDINGS

■ Compliance teams under pressure to approve heightened risk third parties ■ Compliance policies and procedures related to third-party risk management gain traction ■ Most companies perform risk-based diligence on third parties both at the beginning of the relationship and periodically thereafter ■ Most companies have Compliance and Ethics teams involved in reviewing and approving potential third parties ■ Only a minority of companies require anti-corruption training for third parties ■ Opportunities exist to tighten contractual anti-corruption protections and strategies

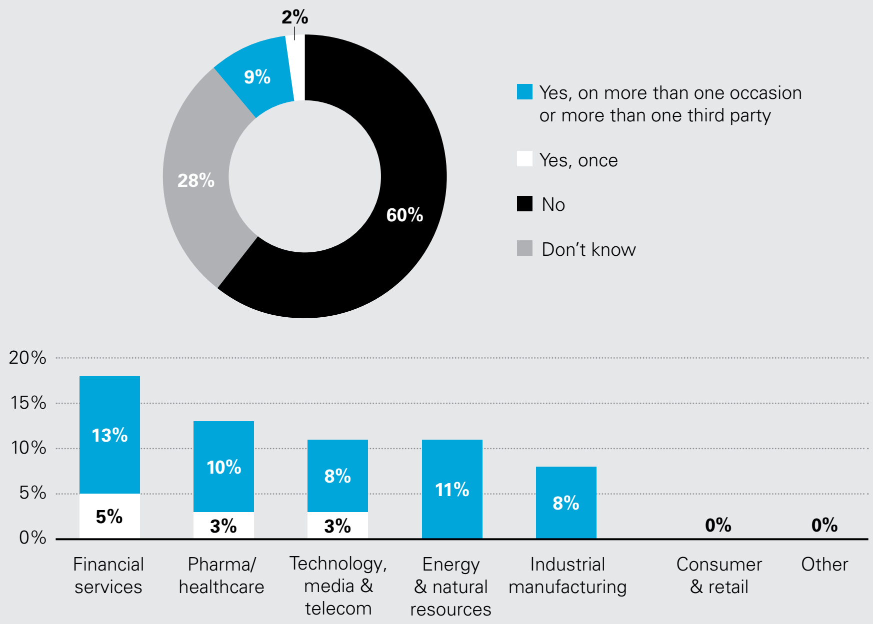
Approximately 90% of Foreign Corrupt Practices Act (FCPA) enforcement matters between 1978 and 2023 identified a third-party intermediary, such as a sales agent, consultant or distributor, as part of the bribery scheme.[1]

Under the FCPA, willful blindness or awareness of a high probability that improper payments are being made by a third party may be interpreted as knowledge of a corrupt payment and provide the basis for liability for companies and individuals.

The behavior of third parties is also highly relevant under the laws of other countries. For example, under UK law, companies are liable for bribery offenses committed by their "associated persons." These are people who in any capacity provide services on a company's behalf. Liability is strict, and a company's only defense is to show that it had in place adequate procedures to prevent the commission of the bribery offense. The role of compliance in third-party risk management is therefore critically important to the overall effectiveness of a company's anti-corruption compliance program.

Respondents indicate that companies employ a variety of contractual anti-corruption protections and strategies. The most commonly used anti-corruption compliance provisions in third-party agreements are anti-corruption compliance representations and warranties (64%) and related audit (61%) and termination (66%) rights. More than half of respondents (56%) also contractually require third parties to cooperate with compliance inquiries. But only a small minority of companies (14%) included provisions to shift the cost of failed compliance audits to the third party.

Has your organization's Compliance and Ethics function ever been pressured to approve the engagement of a third party you believe presented an unacceptable corruption risk profile?



Source: 2023 Global compliance risk benchmarking survey

COMPLIANCE TEAMS REPORT FEELING PRESSURE TO APPROVE HEIGHTENED RISK THIRD PARTIES

11% of respondents reported they have been pressured to approve the engagement of a third party presenting an unacceptable corruption risk, with 9% reporting that it happened more than once or with more than one third party.

> "Third-party risk management is critically important to the overall effectiveness of an anti-corruption compliance program

[1] Source: Third-Party Intermediaries Disclosed in FCPA-Related Enforcement Actions, Foreign Corrupt Practices Act Clearinghouse, Stanford Law School

COMPLIANCE POLICIES AND PROCEDURES RELATED TO THIRD-PARTY RISK MANAGEMENT ARE GAINING TRACTION

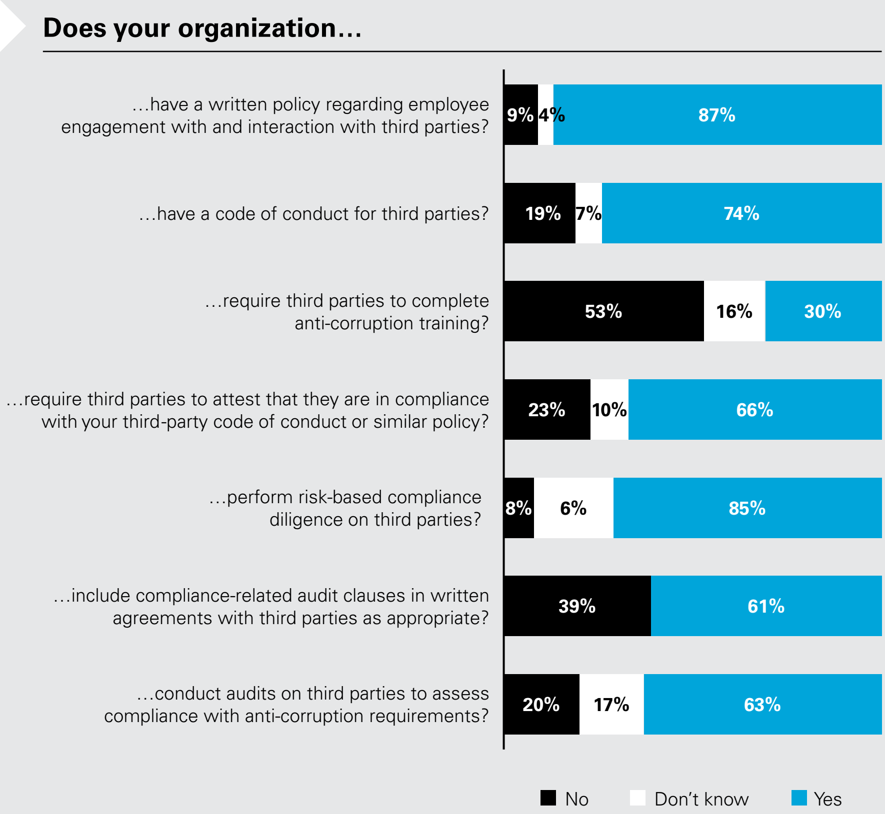
Most respondents (87%) have written policies regarding employee engagement/interaction with third parties.

Almost three-quarters of respondents (74%) have a code of conduct for third parties, and two-thirds (66%) of those respondents require third parties to attest to their compliance with the code of conduct or similar policy.

More than half of respondents (53%) do not require third parties to complete anti-corruption training.

The majority of respondents (85%) perform risk-based compliance diligence on third parties.

While 91% of respondents include some form of anti-corruption provision in their agreements with third parties, 39% of respondents do not use audit clauses in written agreements with third parties with a heightened risk profile, and 20% do not conduct compliance audits on third parties.



Source: 2023 Global compliance risk benchmarking survey

MOST COMPANIES ARE PERFORMING RISK-BASED DILIGENCE ON THIRD PARTIES BOTH AT THE BEGINNING OF THE RELATIONSHIP AND PERIODICALLY THEREAFTER

On average, most respondents (85%) report that their organizations perform risk-based compliance diligence on third parties.

Of these, more than half (55%) said that they perform risk-based diligence on third parties before contracting with them and also periodically thereafter, whereas the remaining 30% stated that risk-based diligence only takes place before contracting with third parties.

While 85% or more of companies across most industries reported performing risk-based compliance due diligence on third parties, the consumer & retail industry was an outlier, with only 45% of respondents reporting doing so.

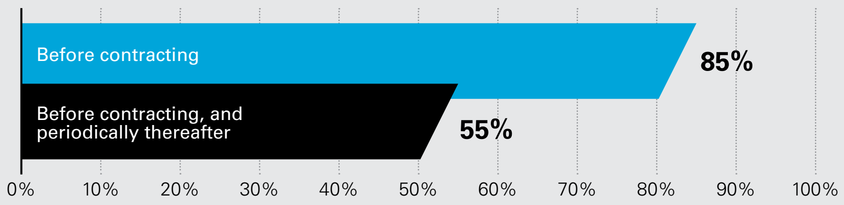
AT MOST COMPANIES, COMPLIANCE AND ETHICS TEAMS PERFORM COMPLIANCE DILIGENCE

Enforcement authorities pay attention to the methods companies use in performing compliance due diligence, as well as the personnel who are responsible for performing it. Authorities generally expect to see involvement from the second line of defense in performing diligence, as business units may not have the expertise to assess third parties or the independence to reject them on compliance grounds. Authorities also consider whether information received from third parties and business teams on questionnaires is corroborated using independent sources, such as public records searches.

Most respondents (57%) reported that their Compliance and Ethics teams perform third-party compliance diligence. While 42% of companies involve the relevant business unit in conducting compliance due diligence, 14% said that they only use the relevant business unit for compliance diligence. A further 15% of respondents did not know who performs compliance diligence at their company.

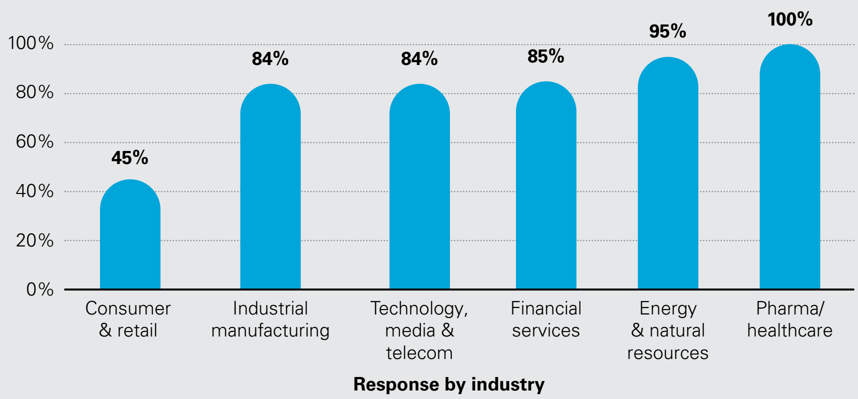
Just under one-quarter of respondents (24%) outsource third-party compliance diligence to an external vendor.

When does your organization perform risk-based compliance diligence on third parties?



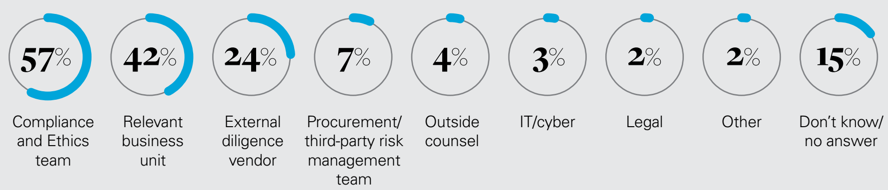
Source: 2023 Global compliance risk benchmarking survey

Does your organization perform risk-based compliance diligence on third parties?



Source: 2023 Global compliance risk benchmarking survey

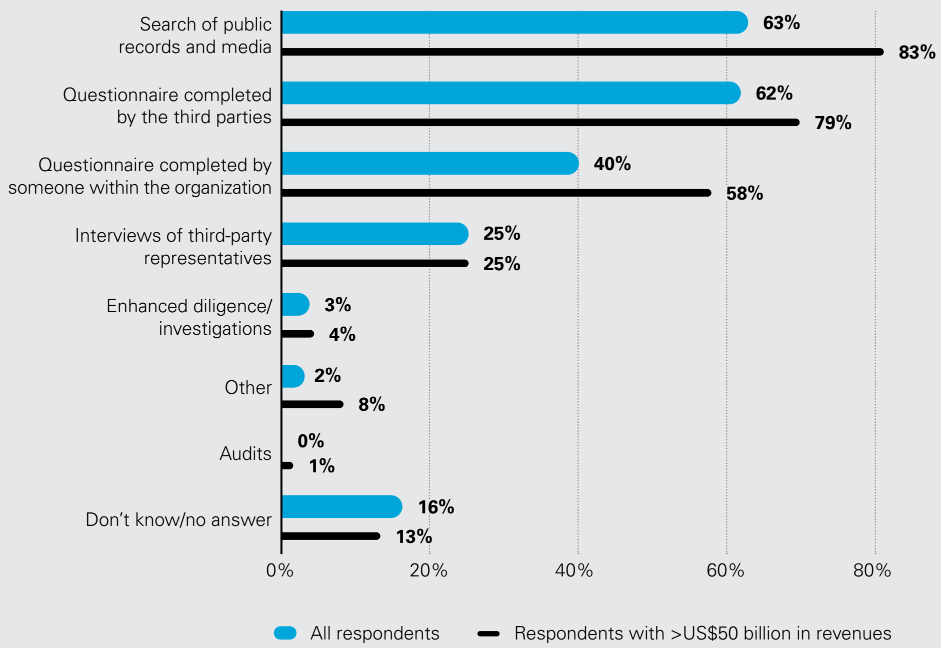
Who performs risk based third-party compliance due diligence for your organization?



Source: 2023 Global compliance risk benchmarking survey

> **Enforcement authorities pay close attention to the methods companies use in performing compliance due diligence—and the personnel responsible for performing it**

What methods does your organization use to perform risk-based compliance diligence on third parties?



Source: 2023 Global compliance risk benchmarking survey

Responses show that a majority of companies consider multiple sources of information as part of compliance diligence. Leading methods for screening potential vendors include using questionnaires completed either by the third parties (62%) or in-house (40%), as well as public records/media searches (63%).

MOST COMPANIES HAVE ETHICS AND COMPLIANCE TEAMS INVOLVED IN REVIEWING AND APPROVING POTENTIAL THIRD PARTIES

While nearly two-thirds of respondents (65%) reported that their Compliance and Ethics function has a defined role in reviewing and approving potential third parties, more than one in five (28%) respondents stated that their Compliance and Ethics function does not have one.

Among companies that define a role for Compliance and Ethics teams in approving third parties, 47% do so based on the third party's risk profile, while 18% indicated that this function reviews all potential third parties irrespective of risk.

While the vast majority (75%) of respondents reported that their Compliance and Ethics function is authorized to prevent the engagement of a third party, a minority (15%) said this function lacks that authority.

A MINORITY OF COMPANIES REQUIRE ANTI-CORRUPTION TRAINING FOR THIRD PARTIES

Anti-corruption training is generally viewed as an important tool to ensure third parties understand their obligations under applicable laws and relevant contract clauses, and to reinforce the consequences of non-compliance. These findings indicate room for growth for companies to enhance their approach to third-party risk management.

Less than one-third of respondents (30%) require third parties to complete anti-corruption training, while more than half of respondents (53%) do not require such training.

Among the 30% of respondents that require third-party anti-corruption training, 75% require third parties to complete their own organization's anti-corruption training.

More than half of respondents (62%) audit third parties to assess compliance with anti-corruption requirements

LESS THAN ONE-QUARTER OF COMPANIES PERFORM REGULAR COMPLIANCE AUDITS ON THIRD PARTIES

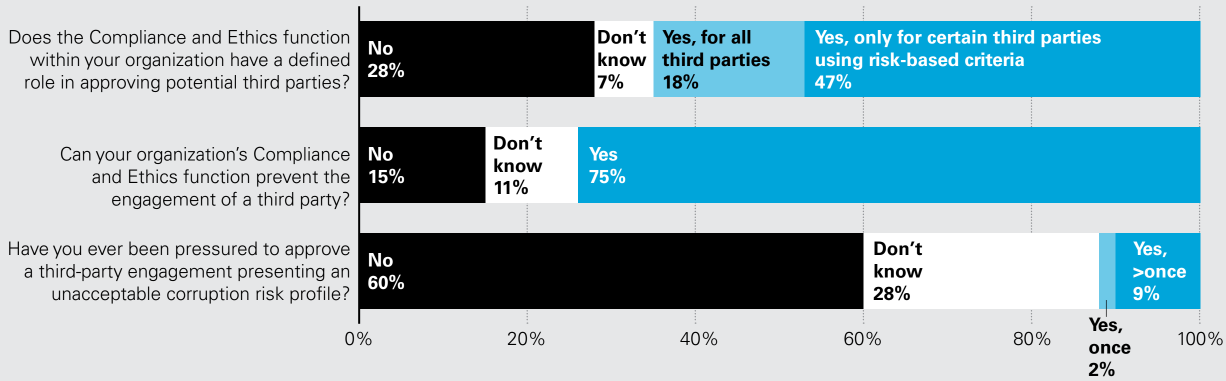
Third-party compliance audits are an emerging area of focus for compliance leaders and enforcement authorities. They can have particular importance in jurisdictions such as the UK, where a company can face criminal liability for failing to prevent bribery by third parties performing services for or on its behalf. When performed proactively, compliance audits can help companies increase awareness of compliance requirements and deficiencies among third parties and help prevent serious incidents of non-compliance before they arise. When performed reactively in response to a triggering event, these audits can help company counsel gather evidence and evaluate potential resolution strategies, including litigation and disclosure. In both cases, the compliance audit is an important tool in giving teeth to a company's contractual anti-corruption compliance requirements.

While more than half of respondents (62%) audit third parties to assess compliance with anti-corruption requirements, only 22% of respondents audit third parties regularly, whether annually (11%) or less frequently (11%). 40% of respondents report auditing third parties only based on triggering events.

COMPANIES PREDOMINANTLY USE ANTI-CORRUPTION PROVISIONS IN THIRD-PARTY AGREEMENTS, BUT OPPORTUNITIES EXIST TO TIGHTEN AGREEMENTS

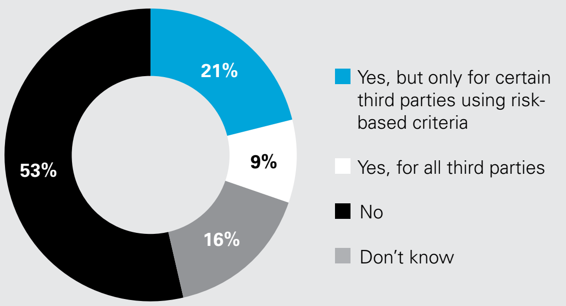
A company's ability to gather information and hold third parties accountable with respect to potential anti-corruption concerns can often hinge on the contractual protections that a company's legal team initially incorporated into its agreements with third parties. While in general most companies (91%) reported using some anti-corruption clauses in

Risk-based compliance diligence on third parties

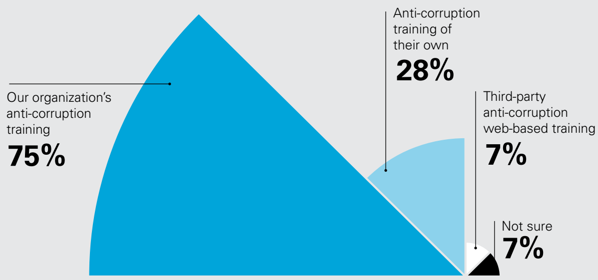


Source: 2023 Global compliance risk benchmarking survey

Does your organization require third parties to complete anti-corruption training?



Which type of anti-corruption training does your organization require third parties to complete?



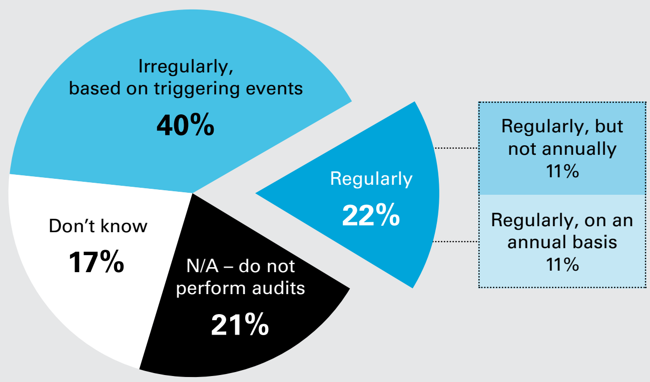
Source: 2023 Global compliance risk benchmarking survey

third-party agreements, certain contractual provisions that typically support and encourage enforcement of those clauses are not being used by companies.

39% did not include compliance audit clauses, and 86% did not include provisions to shift the cost of failed compliance audits to the third party.

32% did not include provisions to allow termination of a third party in the event of non-compliance.

How frequently does your organization conduct audits on third parties to assess compliance with anti-corruption requirements?



Source: 2023 Global compliance risk benchmarking survey

Use of data analytics in compliance programs

KEY FINDINGS

- Use of data analytics is becoming more commonplace, but most companies are still developing their approach
- Growing convergence in how data analytics is deployed in compliance programs

Being informed is the first step to being prepared. For decades, corporate counsel and compliance professionals have developed tools, systems and analytical approaches to improve the efficacy and scale of compliance oversight and controls. Technology has allowed companies to integrate compliance concepts and requirements into core business operations like never before. The "compliance by design" revolution has resulted in the growth of data analytics tools, key performance indicators and dashboards to help compliance teams monitor day-to-day business activities for risk and identify potential issues before they arise. These innovations have also resulted in significant cost savings for companies and more precision in targeting risk-based anti-corruption activities.

In a nod to the increasingly clear value of data analytics, in 2020 the US Department of Justice's Criminal Division updated its "Evaluation of Corporate Compliance Programs" to direct prosecutors to consider how companies collect and analyze data as part of their compliance programs. The US Department of Justice's Criminal Division encouraged prosecutors to assess how compliance teams use data analysis techniques to review business data and identify potential compliance concerns. One can expect an increased focus by enforcement authorities on whether and to what extent corporate counsel and compliance professionals are engaged with and deriving data from real-time business operations.

Our survey asked companies to describe the current state of their data analytics programs, and where they are headed.

78%

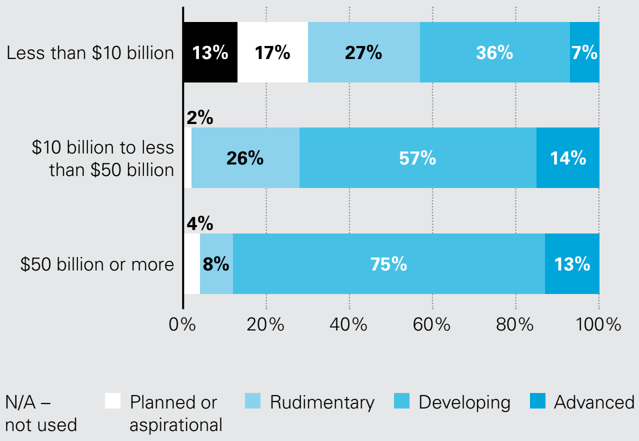
of respondents report using data analytics for compliance risks

How developed is your organization's use of data analytics for compliance risks?

Developing (e.g., patchwork of scalable system processes and manual processes)	45%
Rudimentary (e.g., non-scaling, manual processes and workbooks)	24%
Advanced (e.g., integrated monitoring, reporting and automation across systems)	9%
Planned or aspirational (e.g., not implemented)	12%
N/A – do not utilize data analytics for compliance	9%

Source: 2023 Global compliance risk benchmarking survey

Data maturity ranking by company size (revenues (US$))



Source: 2023 Global compliance risk benchmarking survey

APPROXIMATELY ONE IN FIVE COMPANIES DO NOT CURRENTLY USE DATA ANALYTICS FOR COMPLIANCE AND ETHICS

Few companies (9%) viewed themselves as being advanced in using data analytics for their compliance programs. Most companies (69%) reported having a rudimentary or developing data analytics strategy.

By comparison, approximately one-fifth (21%) of respondents do not currently use data analytics for their compliance programs.

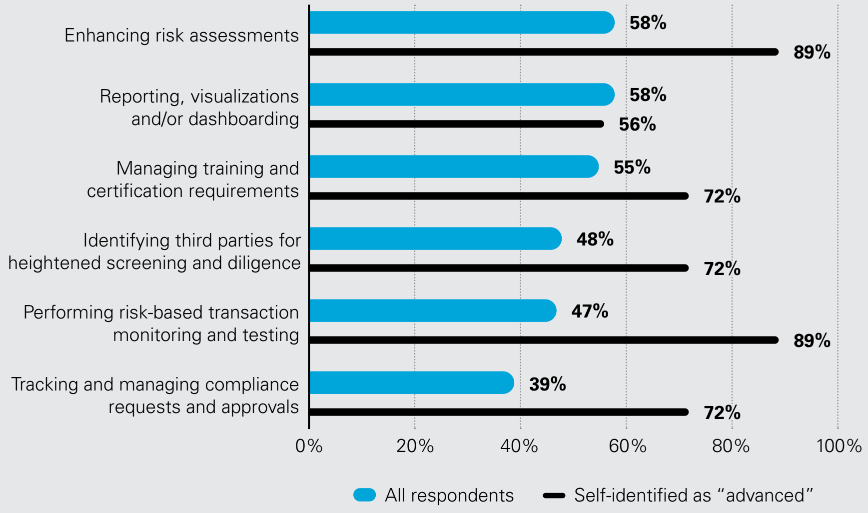
Adoption of data analytics was lowest among smaller companies, with approximately 30% of companies earning less than US$10 billion in revenues annually not using data analytics for compliance, compared to less than 5% of companies earning more than US$10 billion per year.

AMONG COMPANIES USING DATA ANALYTICS, THERE IS GROWING CONVERGENCE IN HOW THEY DEPLOY DATA ANALYTICS IN COMPLIANCE PROGRAMS

Overall, our survey shows that most companies are using data analytics to support core compliance program activities. Over half of respondents reported using data analytics to enhance risk assessments (58%); develop reports, visualizations and/or dashboards (58%); and manage training and certification requirements (55%).

Notably, the 9% of companies that self-identified as having "advanced" data analytics programs were more likely to use data analytics in areas that relate to management of real-time business risk. For instance, these respondents were almost twice as likely to report using data analytics to perform risk-based transaction monitoring and testing (89%) than the average (47%). They also were more likely to use data analytics to identify third parties for heightened screening and diligence (72%) than the average (48%); and to track and manage compliance requests and approvals (72%) than the average (39%).

How does your organization currently use data analytics in its compliance program?



Source: 2023 Global compliance risk benchmarking survey

Monitoring and review

KEY FINDINGS

■ Most companies review the content of their anti-corruption programs, but do not test the programs regularly for effectiveness ■ Larger companies prefer to test on a periodic or annual basis, with periodic testing being more popular overall ■ Smaller companies tend to test on an ad hoc basis, if at all ■ A minority of companies use sophisticated techniques to test anti-corruption program effectiveness

SLIGHTLY MORE THAN HALF OF COMPANIES REPORT TESTING THE EFFECTIVENESS OF THEIR ANTI-CORRUPTION PROGRAMS ON A REGULAR BASIS

Important elements of an effective compliance program are periodically reviewing the contents of the program against evolving risks and regulatory requirements, and monitoring/testing the program to identify and improve deficiencies. While a significant majority of companies (74%) reported regularly reviewing the content of their anti-corruption programs, only 55% regularly tested their programs for effectiveness.

Notably, 9% of companies stated that they have never tested the effectiveness of their anti-corruption program.

Responses also show uncertainty among companies regarding the frequency of anti-corruption program reviews and testing, with 12% of respondents unsure of the frequency of anti-corruption program reviews, and 15% of respondents unsure of the frequency of compliance program testing.

ANTI-CORRUPTION PROGRAM TESTING: TRENDS BY COMPANY SIZE

The largest companies prefer to test on a periodic or annual basis.

Three in four companies with revenues exceeding US$50 billion (75%) conduct periodic or annual testing, with 50% preferring periodic testing. No company in this size class reported "never" testing its anti-corruption program.

In comparison, smaller companies were more likely to test on an ad hoc basis, if at all. 16% of companies with less than US$1 billion in annual revenues reported "never" testing their anti-corruption program. Less than half (45%) of these companies perform periodic or annual reviews.

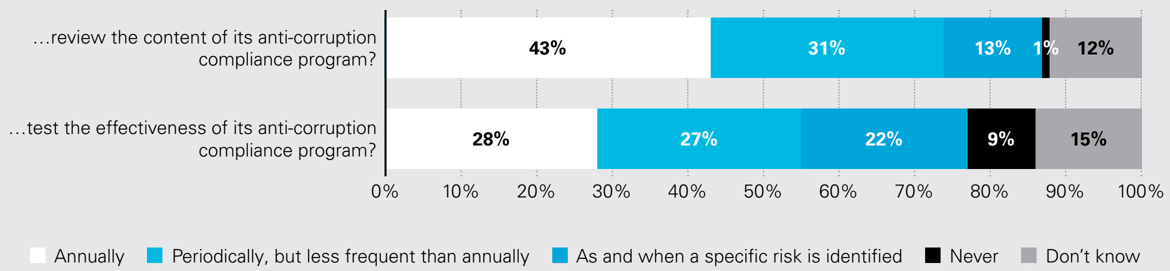
A MINORITY OF COMPANIES USE SOPHISTICATED TECHNIQUES TO TEST ANTI-CORRUPTION PROGRAM EFFECTIVENESS

Companies are more likely to use traditional anti-corruption program testing techniques including the use of internal audits (60%); review of compliance training and certifications (50%); and review of hotline usage (40%).

Conversely, less than one-third of respondents reported using more sophisticated techniques for evaluating compliance program effectiveness with respect to day-to-day operations, such as transaction testing (32%) and third-party audits (24%).

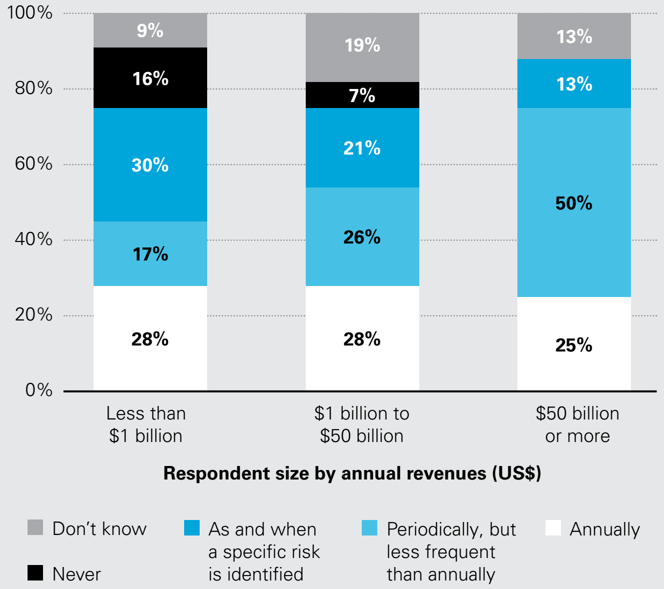
Only one in five (20%) said that they evaluate employee requests to Compliance and Ethics teams for consultation or approval.

How often does your organization…



Source: 2023 Global compliance risk benchmarking survey

How often does your organization test the effectiveness of its anti-corruption program?



Source: 2023 Global compliance risk benchmarking survey

How does your organization test the effectiveness of its anti-corruption program?

Source: 2023 Global compliance risk benchmarking survey

Compliance escalations

KEY FINDINGS

■ Companies publicize reporting mechanisms in various ways ■ Companies are not consistently measuring hotline awareness and effectiveness ■ Employee comfort level with escalation and reporting mechanisms measured less than overall employee awareness ■ Employees' concerns focus on hotline integrity, not technical implementation

Most organizations have some form of procedure in place for reporting and escalating compliance issues, whether due to guidance from enforcement authorities or legal requirements. These procedures can range from informal chats with management to anonymous external hotlines.

The effectiveness of these mechanisms can be limited, however, if employees are not aware they exist or are hesitant to use them. Fear of retaliation and a lack of trust in the outcome of an investigation are often cited as common reasons for such reluctance.

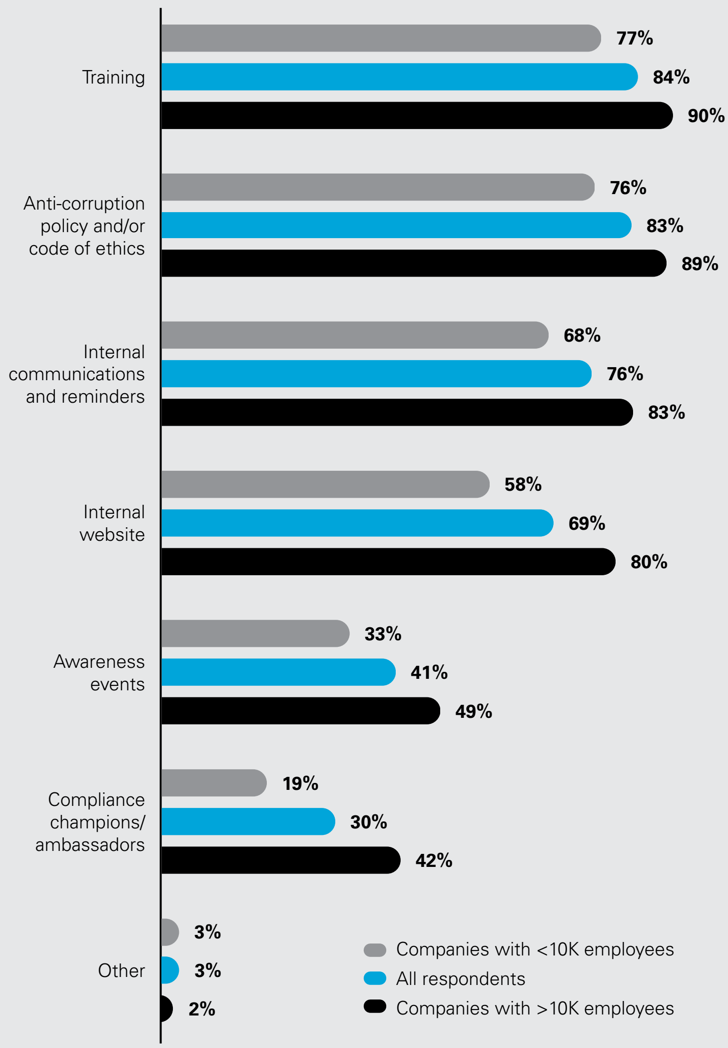
The practice of reporting and escalation must be effectively embedded in the organization's culture, with a particular focus on the level of employee awareness and comfort in using these mechanisms. Identifying and addressing any deficiencies is also crucial.

COMPANIES ARE PUBLICIZING REPORTING MECHANISMS IN VARIOUS WAYS

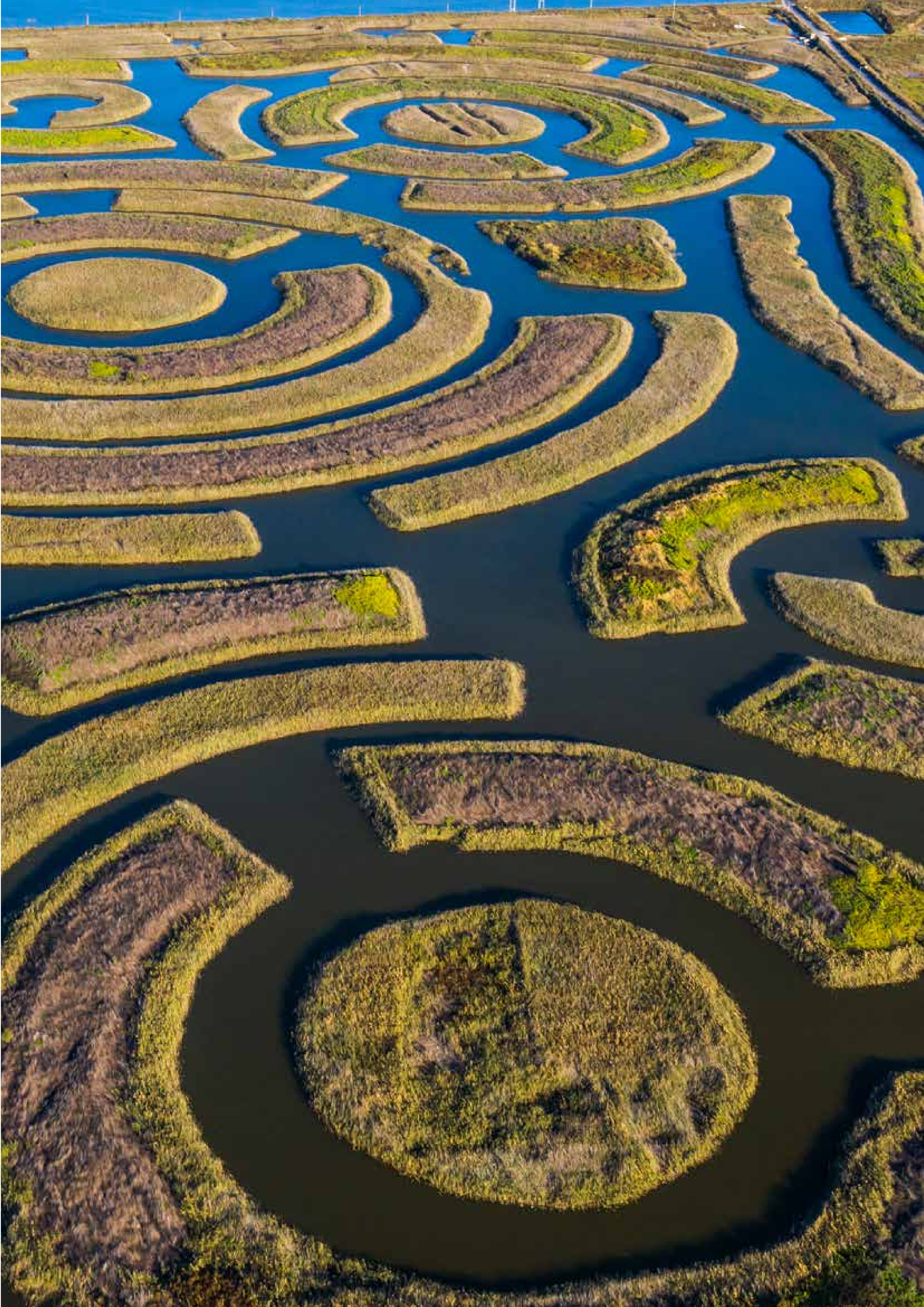
The responses show that resources matter. Organizations with revenues in excess of US$1 billion are more likely to promote reporting mechanisms than those below this threshold. Better resourced organizations tend to have more employees, and the responses show that those with more than 10,000 employees do more to ensure the effectiveness of their reporting mechanisms. Similarly, publicly listed companies do more to raise awareness of escalation and reporting mechanisms than do private companies.

Only 2% of organizations report having no formal compliance escalation mechanism

How are staff, contractors and other responsible individuals made aware of your organization's compliance escalation/reporting mechanisms?



Source: 2023 Global compliance risk benchmarking survey



Training is seen as the most effective way to raise awareness of reporting mechanisms: 84% of respondents said they achieve awareness of their reporting mechanisms through training.

Internal communications and reminders also featured prominently. Comparatively few organizations (30%) said that they use compliance champions or ambassadors.

A small number of organizations (2%) revealed that they do not have a formal compliance escalation mechanism.

COMPANIES ARE NOT CONSISTENTLY MEASURING HOTLINE AWARENESS AND EFFECTIVENESS

Despite the importance of employee awareness of reporting mechanisms, only half of respondents (51%) stated that their company measures employee awareness of those mechanisms. Conversely, 35% of the respondents stated that they do not track employee awareness. And a significant minority (14%) did not know whether any such testing occurred.

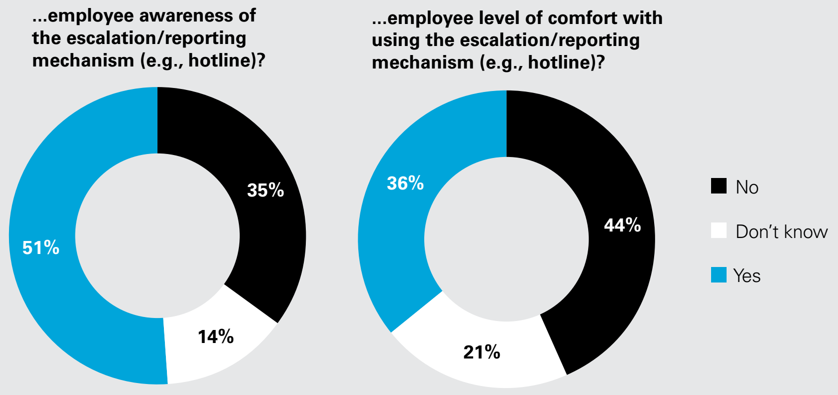
Large companies are significantly more likely to test employee awareness of hotline mechanisms than small companies. Approximately one-third (34%) of companies with less than US$250 million in revenues reported testing employee awareness of reporting mechanisms, compared to more than two-thirds (68%) of companies with more than US$10 billion per year.

Uncertainty about reporting mechanism testing also appears higher, however, in larger companies (17%) than in small companies (3%).

Of further interest is the number of frontline compliance personnel who did not know how or whether their organization monitors employee awareness of how to report concerns: 25% investigation directors; 19% Compliance and Ethics officers; and 33% legal teams.

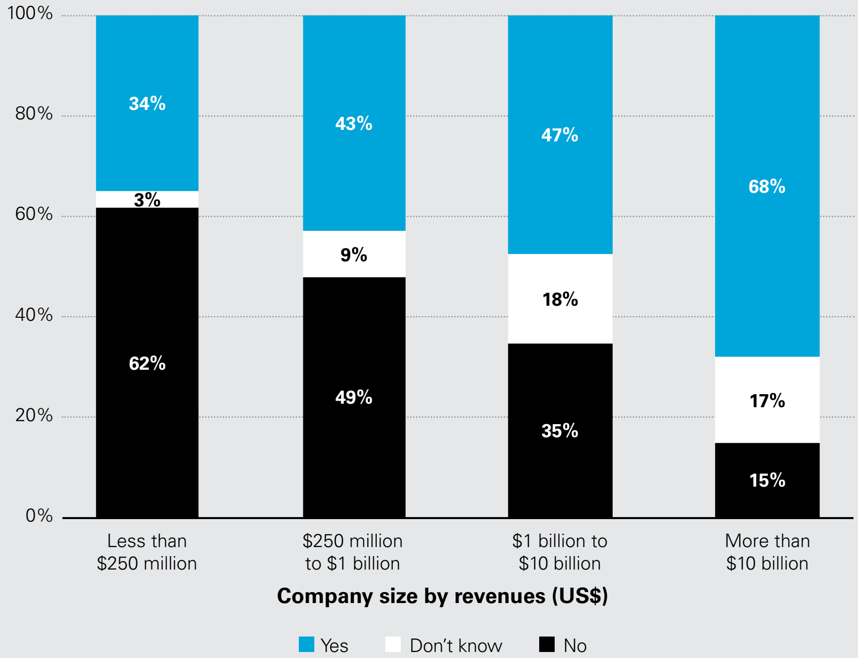
The levels of uncertainty about these fundamental compliance functions seem surprisingly high and concerning given the surveyed population: the very personnel tasked with compliance and legal risk assessment. These responses suggest that a significant minority of respondents would have a limited ability to address questions from enforcement authorities about the effectiveness of their reporting procedures.

Does your organization measure…



Source: 2023 Global compliance risk benchmarking survey

Does your organization measure employee awareness of the escalation/reporting mechanism?



Source: 2023 Global compliance risk benchmarking survey

> **The practice of reporting must be effectively embedded in the organization's culture**

COMPANIES THAT MEASURE HOTLINE AWARENESS REPORT GREATER CONFIDENCE IN WHISTLEBLOWER PROTECTIONS

Ensuring that employees are aware of reporting mechanisms in the first place is fundamental, but measuring employee comfort and experience with using hotlines is equally important in ensuring that such mechanisms are effective. While fewer companies reported measuring employee comfort with reporting mechanisms than with awareness, companies that measured employee comfort showed higher levels of confidence in the effectiveness of their anti-retaliation policies and procedures.

Companies that measured employee comfort with reporting mechanisms were much more likely to believe their anti-retaliation policies and procedures are effective (83%) than are companies that did not measure employee comfort (65%).

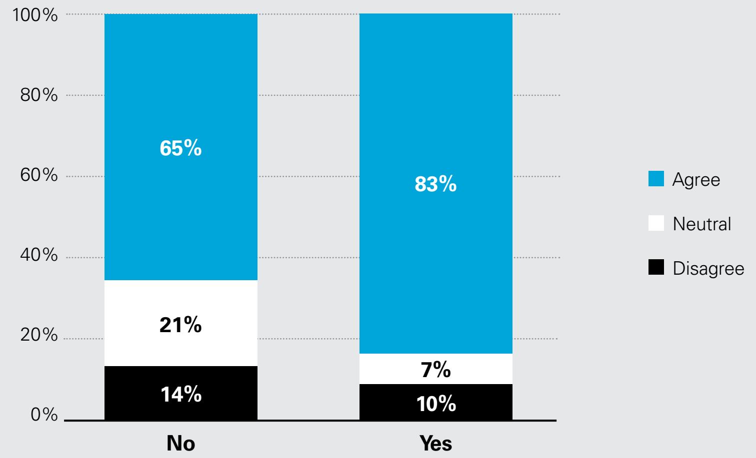
EMPLOYEES' CONCERNS FOCUS ON HOTLINE INTEGRITY, NOT TECHNICAL IMPLEMENTATION

Survey responses indicate that employee confidence in the processes in place following submission of a report is lacking, which, in turn, creates a potential barrier to compliance escalations being made. The survey results suggest there is more to be done across all industries to give employees comfort that reports made in good faith will be taken seriously and acted upon, and that reporting parties will be adequately protected against retaliation.

The persistence of familiar deterrents to reporting—fear of retaliation, futility and anonymity concerns—suggests that many organizations struggle to constructively make use of this frontline, internal information resource.

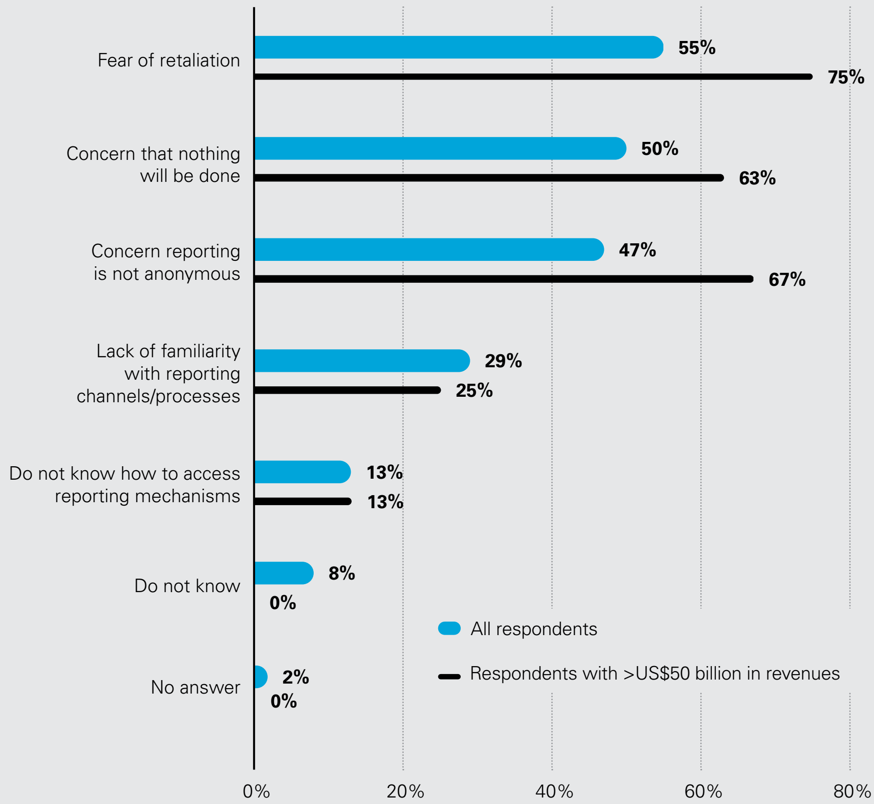
Roughly half of respondents identified the same three reasons why employees are reluctant to report potential compliance issues: fear of retaliation (55%); concern that nothing will be done (50%); and concern that reporting is not anonymous (47%).

Our organization's policies and procedures to protect employees who report suspected misconduct are working effectively



Source: 2023 Global compliance risk benchmarking survey

What are the top reasons cited by employees, if any, for concerns with using escalation/reporting mechanisms?



Source: 2023 Global compliance risk benchmarking survey

How many compliance escalations does your organization typically receive in a 12-month period through the escalation/reporting mechanism or other channels?

Number of annual escalations	Size of company (revenues in US$)					
	Less than $250 million	$250 million to $1 billion	$1 billion to $10 billion	$10 billion to $50 billion	$50 billion or more	All respondents
0	20%	11%	3%	0%	0%	6%
1 to 99	57%	57%	56%	24%	4%	43%
100 to 499	10%	5%	18%	26%	38%	18%
500 to 999	0%	0%	3%	10%	4%	3%
1,000 or more	0%	0%	1%	12%	21%	5%
Don't know	13%	27%	19%	29%	33%	23%

Source: 2023 Global compliance risk benchmarking survey

These concerns were more pronounced among the largest companies, where three-quarters (75%) of respondents cited employee fear of retaliation, and approximately two-thirds were concerned that reporting would not be anonymous (67%) or effective (63%).

COMPLIANCE ESCALATIONS VOLUMES: BENCHMARKING TRENDS

Given that the number of escalations is likely to be a key metric for understanding how effectively reporting mechanisms are operating in practice, organizations may wish to track periodically the number and type of escalations as part of their monitoring processes.

Almost one-quarter of respondents (23%) stated that they did not know the volume of escalations in their organization.

Approximately two-thirds (67%) of respondents had fewer than 499 compliance escalations per year, with the largest percentage indicating that they typically received between one and 99 escalations (43%).

Escalations seem to increase roughly in proportion to the organization's size. More than half of companies with 499 or fewer compliance escalations a year had fewer than 20 Compliance and Ethics team members. Meanwhile, 72% of companies with 1,000 or more compliance escalations per year had more than 50 Compliance and Ethics team members.

This result is not necessarily cause for concern, as more escalations are reasonably to be expected in bigger companies and may, in fact, be indicative of a healthy reporting culture. Larger organizations also may have additional resources deployed to address the escalation of compliance concerns, resulting in greater familiarity across the business with reporting mechanisms.

“

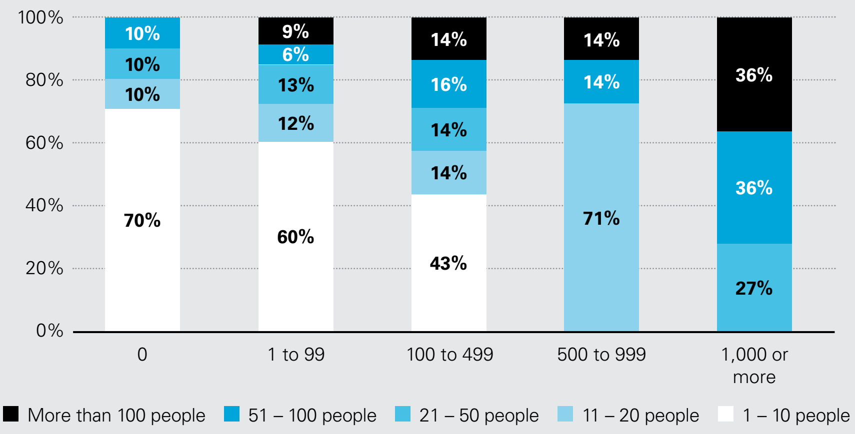
More needs to be done across all industries to give employees comfort that reports made in good faith will be taken seriously and acted upon, and that reporting parties will be adequately protected against retaliation

Overall, companies with larger Compliance and Ethics teams reported higher levels of confidence that hotline policies and procedures are working effectively.

While the financial services industry has historically faced significant scrutiny of its compliance performance, it may not be leading the way in promoting awareness of escalation mechanisms, according to the survey results. Instead, the pharmaceuticals/healthcare and energy & natural resources industries appear to surpass the financial services industry in this regard.

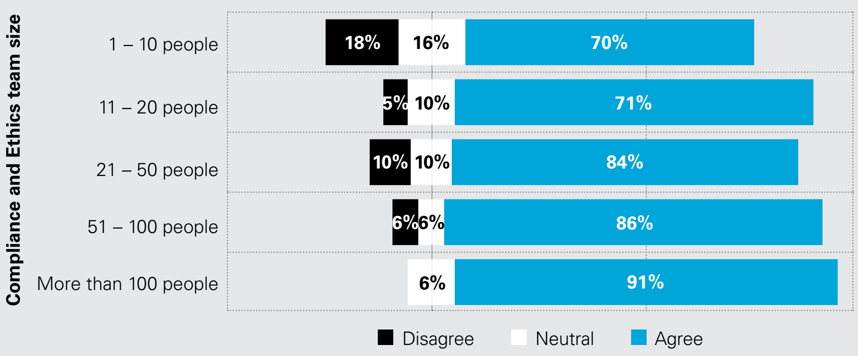
Typical hotline volumes vary dramatically by company size and industry. One-quarter of respondents reporting more than 1,000 escalations per year were from companies with more than 50,000 employees. No companies with fewer than 10,000 employees received escalations at this level. From an industry perspective, technology, media & telecommunications (14%), industrial manufacturing (8%) and pharmaceuticals/healthcare (7%) were most likely to report more than 1,000 escalations per year.

Compliance escalations volume compared with Compliance and Ethics team size



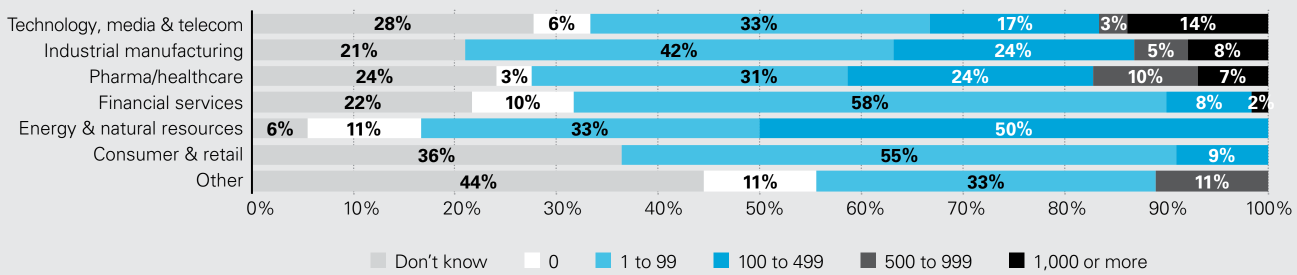
Source: 2023 Global compliance risk benchmarking survey

Our organization's policies and procedures to protect employees who report suspected misconduct are working effectively, by Compliance and Ethics team size



Source: 2023 Global compliance risk benchmarking survey

Excluding HR/employment-related escalations, how many compliance escalations does your organization typically receive in a 12-month period through the escalation/reporting mechanism or other channels?



Source: 2023 Global compliance risk benchmarking survey

ESG

KEY FINDINGS

■ Defining environmental, social and governance (ESG) remains a hurdle for more than one-third of companies ■ Larger companies are more likely to have ESG policies and procedures in place ■ Implementation of ESG policies varies significantly among companies ■ Companies also diverge widely in their ESG priorities for the next 12 months ■ Companies are assessing their ESG risks, but consensus is still developing on how ■ Compliance and Ethics teams play an increasing role in ESG programs, but not ESG strategy

ESG has increasingly become an area of focus, but responses indicate inconsistency in approaches to address ESG risks. In general, public companies and those with dedicated ESG resources appear to have a better understanding and implementation of ESG measures.

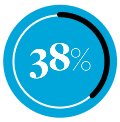
DEFINING "ESG" REMAINS A CHALLENGE FOR MORE THAN ONE-THIRD OF COMPANIES

Almost four in ten respondents (38%) have not clearly defined "ESG."

Approximately half of the respondents (53%) said that their organization had clearly defined "ESG."

Companies in the energy & natural resources and technology, media & telecommunication sectors were most advanced in defining "ESG," with 67% and 61%, respectively, reporting that they have clearly defined it.

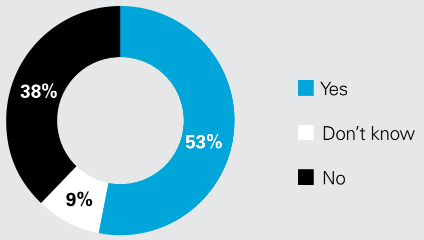
Larger companies are more likely to have clearly defined "ESG." This may be due to bigger companies being able to better afford dedicated ESG officers/teams. There is a decline in definitional confidence, however, with the largest companies (>US$50 billion), suggesting challenges maintaining a clear understanding of ESG as companies grow.



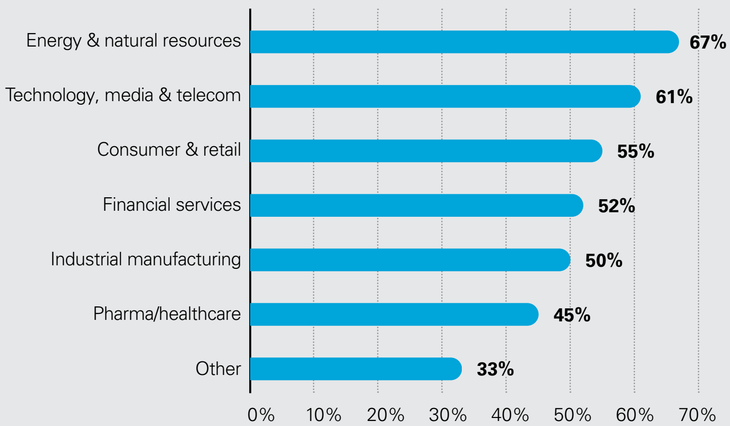
Almost four in ten respondents (38%) have not clearly defined ESG

Does your organization...

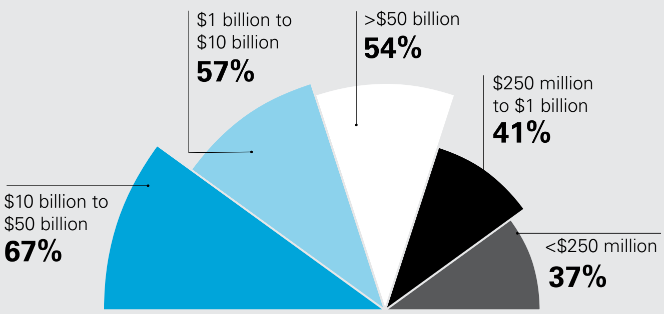
...clearly define "ESG"?



"Yes" response by industry



"Yes" response by company size (US$)



Source: 2023 Global compliance risk benchmarking survey

OWNERSHIP OF ESG VARIES WIDELY BY COMPANY

Given the emerging nature of ESG issues for many companies, almost one-fifth of respondents (17%) did not know who has primary responsibility for ESG within their organization.

Perhaps due to the multi- or inter-disciplinary nature of the issues falling under the ESG banner, survey responses from those who did identify an officer with primary responsibility for ESG yielded a range of responses for who has such responsibility. 37% reported having a Chief ESG Officer, committee or equivalent, while others placed responsibility for ESG with one or more other senior company leaders, such as the General Counsel (16%) and Chief Compliance Officer (10%).

Whereas a company's status as public or private was significantly correlated with whether the company had clearly defined "ESG," that characteristic does not appear relevant to who oversees ESG. Indeed, the survey indicated that private companies were as likely as public companies to have an ESG officer.

Larger companies (those with revenues exceeding US$1 billion) are more likely to have a dedicated Chief ESG Officer or equivalent instead of relying on the General Counsel or Chief Compliance Officer (which smaller companies tend to do).

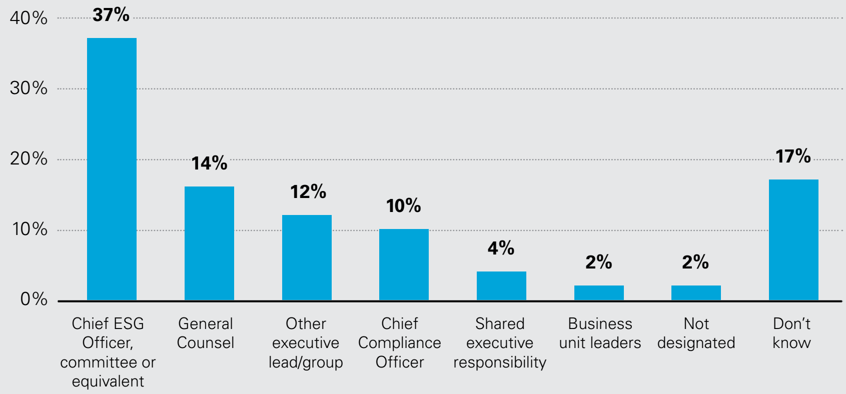
Energy & natural resources is the sector most likely to have a Chief ESG Officer or equivalent (50%).

LARGER COMPANIES ARE MORE LIKELY TO HAVE ESG POLICIES AND PROCEDURES IN PLACE

As with responses to the question of who within the organization had primary responsibility for ESG oversight, almost one in five respondents (18%) did not know if their company had ESG policies and procedures. This response is consistent with the emerging nature of ESG issues at many companies, and indicates there is significant room in those organizations to increase clarity and understanding surrounding ESG and its implications.

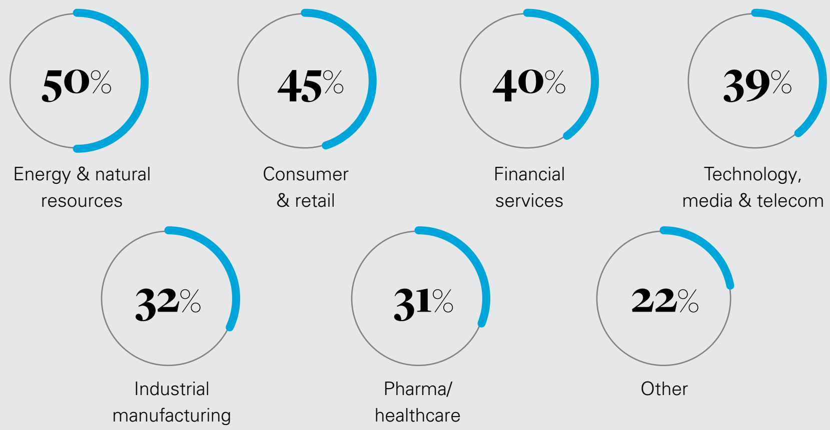
Larger companies are more likely to have ESG policies, with 58% of companies with revenues exceeding US$50 billion reporting that they

Who in your organization has primary responsibility/oversight for ESG matters?



Source: 2023 Global compliance risk benchmarking survey

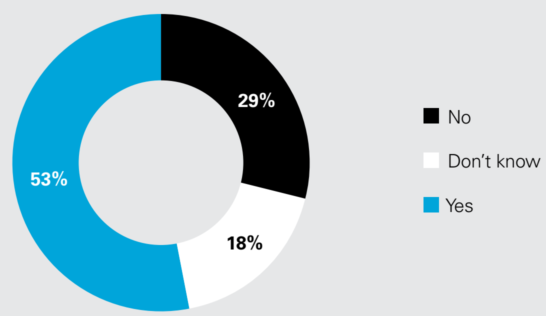
Does your organization have a dedicated ESG officer, committee or equivalent? "Yes" response by industry



Source: 2023 Global compliance risk benchmarking survey

Does your organization…

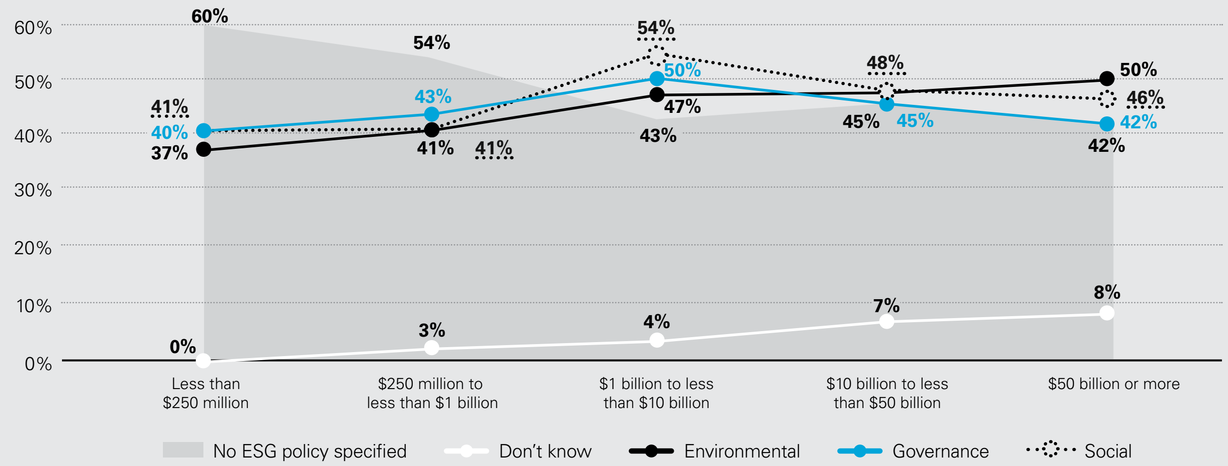
…have policies and procedures to address ESG risks?



Source: 2023 Global compliance risk benchmarking survey

Does your organization have policies and procedures to address ESG risks?

Results by company size by revenues (US$) and ESG policy



Source: 2023 Global compliance risk benchmarking survey

have ESG policies, compared to 40% of companies with revenues below US$250 million. Even so, approximately 42% larger companies have no ESG policies, or do not know if there are ESG policies in place.

Notably, uncertainty about whether a company has policies and procedures to address ESG risks increased as revenue increased, suggesting opportunities for greater awareness-building in those companies.

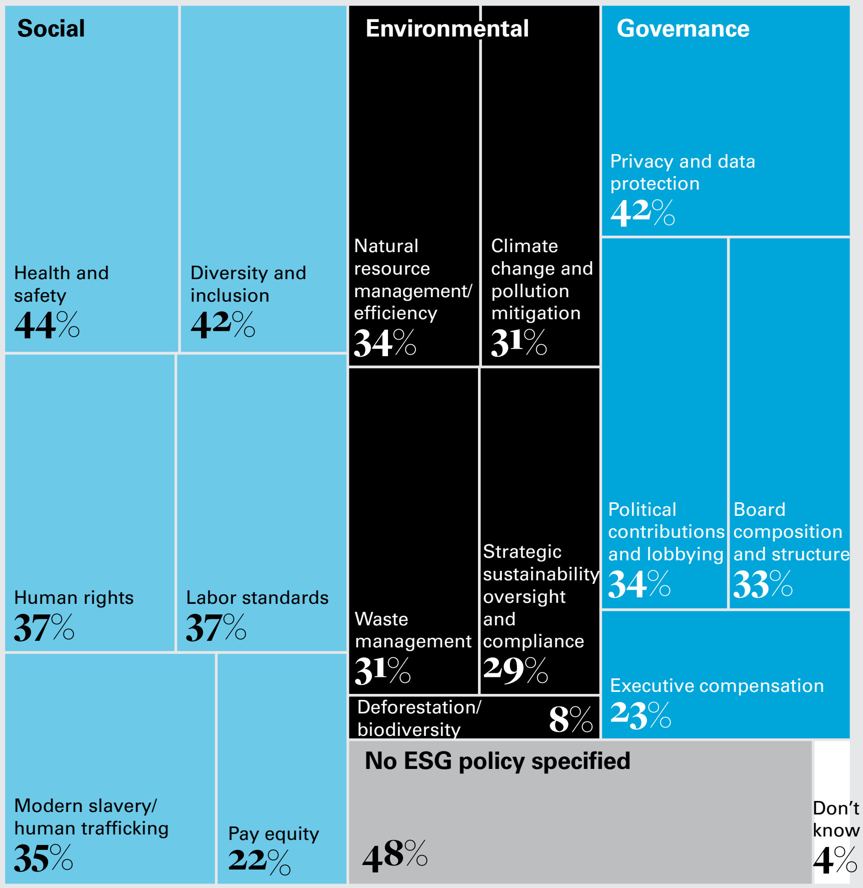
From an industry perspective, companies in the energy & natural resources industry and industrial manufacturing industry were most likely to have policies and procedures to address ESG risks (with 78% and 66% of respondents, respectively, answering positively), whereas companies in the financial services sector were least likely to have such policies and procedures (45% of respondents answered positively).

IMPLEMENTATION OF ESG POLICIES VARIES SIGNIFICANTLY AMONG COMPANIES

ESG covers a wide range of policies affecting all companies. We asked respondents to clarify which policies they have implemented that relate to their ESG risks.

No one ESG topic clearly stands out above the rest as being a current area of focus for a majority of

For which topics does your organization have policies and procedures to address ESG risks?



Source: 2023 Global compliance risk benchmarking survey

respondents. The top-three choices were: health and safety (44%); diversity and inclusion (42%); and privacy and data protection (42%).

Two industries in which health and safety issues are particularly important—energy & natural resources and industrial manufacturing—appear to account for the prominence of health and safety in the responses.

48% of respondents did not identify a specific ESG policy, which may indicate that ESG goals and particular policies are not aligned.

COMPANIES ALSO DIVERGE WIDELY IN THEIR ESG PRIORITIES FOR THE NEXT 12 MONTHS

While not selected by a majority of respondents, diversity and inclusion is nonetheless the highest-priority ESG topic for organizations generally over the next 12 months, although there was some divergence among industries.

When asked about the top ESG priorities for the following 12 months, no one topic was selected by a majority of respondents.

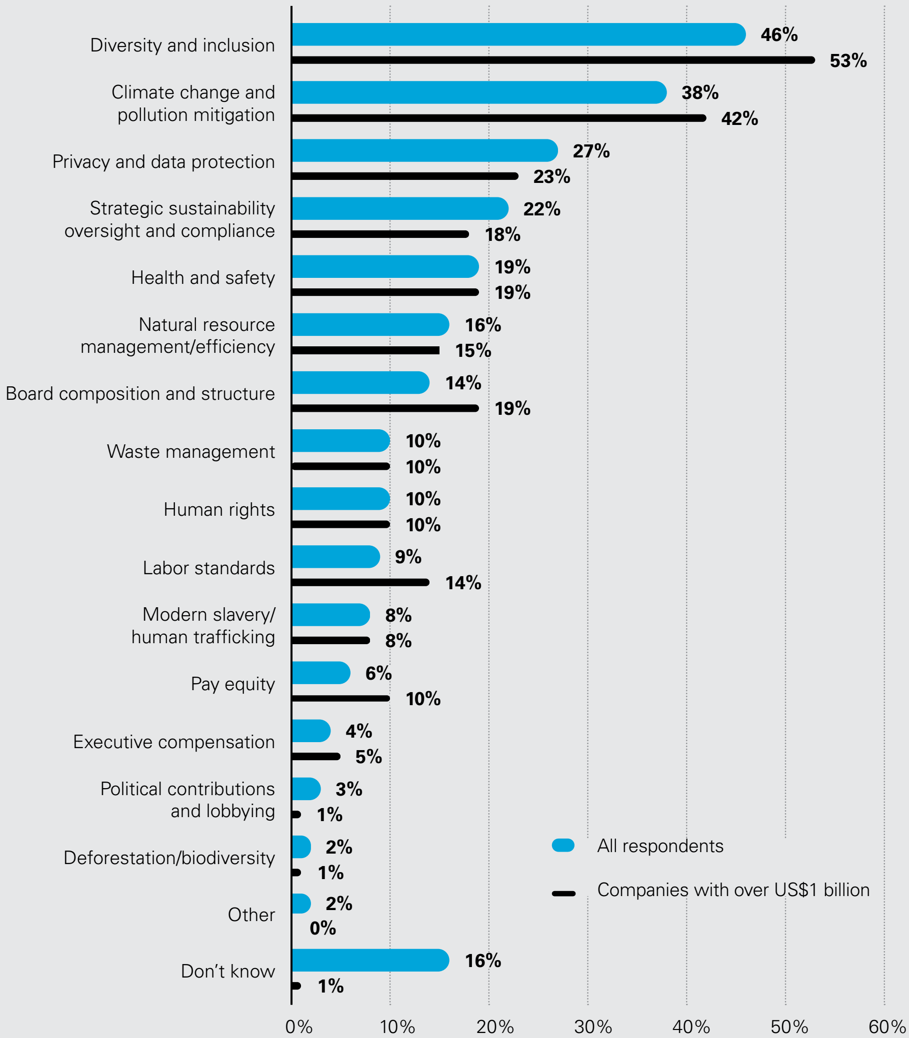
The top-five ESG priorities that companies reported were: diversity and inclusion (46%); climate change and pollution mitigation (38%); privacy and data protection (27%); strategic sustainability oversight and compliance (22%); and health and safety (19%).

More than one-third of respondents (36%) from consumer & retail identified waste management as the highest-priority topic for their organization over the next 12 months, which is more than three times higher than any other industry group, whereas almost half (44%) of respondents in technology, media & telecommunications identified privacy and data protection as their highest priorities.

More than half of companies with revenues of US$1 billion or more (53%) cited diversity and inclusion as a top priority.

Meanwhile, 16% of companies with less than US$1 billion in revenues did not know their ESG priorities for the next 12 months.

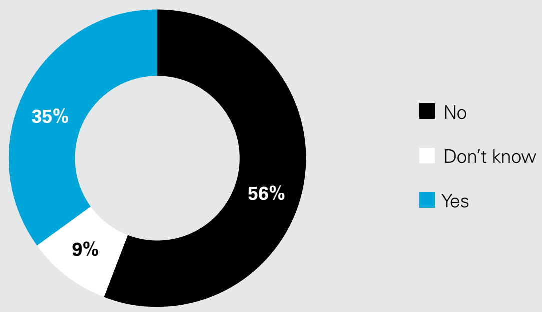
Of the following ESG topics, which are the highest priority for your organization in the next 12 months?



Source: 2023 Global compliance risk benchmarking survey

Does your organization…

…provide ESG training to employees?



Source: 2023 Global compliance risk benchmarking survey

ESG TRAINING

Only one in three companies (35%) provide ESG training to employees; the majority of companies (56%) do not train employees on ESG matters. Once a company surpasses US$250 million in revenues, however, the likelihood increases of it training employees on ESG matters.

Among industries, companies in the energy & natural resources sector were the most likely to provide training on ESG matters, with 50% of respondents answering in the affirmative. The lowest rate of ESG training across industries was pharma/healthcare, with less than three in ten (29%) stating they conduct ESG training.

COMPANIES ARE ASSESSING THEIR ESG RISKS, BUT CONSENSUS IS STILL DEVELOPING ON HOW

The most popular method of identifying ESG risks among respondents (45%) was through the performance of risk and/or impact assessments.

ESG gap analyses (33%) and internal audits (27%) were the other top choices.

More than one-third (34%) of respondents either stated that ESG risks were not assessed or did not know how they were assessed.

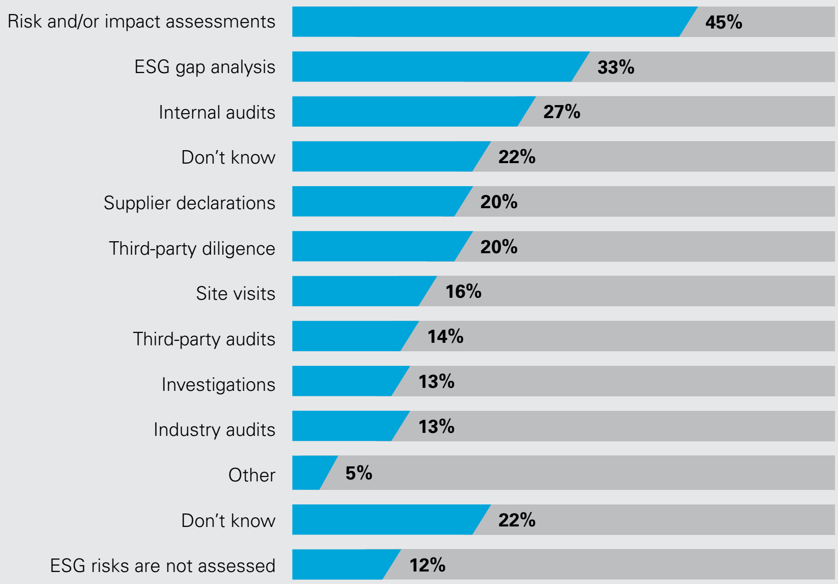
Smaller companies were significantly less likely to take steps to identify ESG risks.

27% of companies with less than US$250 million in revenues did not assess ESG risks, compared to 9% of companies with more than US$1 billion in revenues.

COMPLIANCE AND ETHICS TEAMS PLAY AN INCREASING ROLE IN ESG PROGRAMS, BUT NOT ESG STRATEGY

61% of respondents stated that their Compliance and Ethics function played a role in managing ESG risks. Almost one-quarter (23%) of respondents stated that their Compliance and Ethics function played no role in managing ESG issues. It remains to be seen if the Compliance and Ethics function assumes greater responsibility for ESG issues as jurisdictions impose or increase ESG-related reporting responsibilities and enforcement, or as litigation risk correspondingly increases as well.

How does your organization identify key ESG risks?



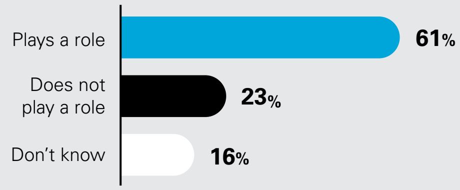
Source: 2023 Global compliance risk benchmarking survey

Respondents not identifying ESG risks, by size

Source: 2023 Global compliance risk benchmarking survey

Among industries, the Compliance and Ethics function appears to be most active in managing ESG issues at consumer & retail companies, and least active at pharma/healthcare companies.

What role does your organization's Compliance and Ethics function play in managing ESG issues?



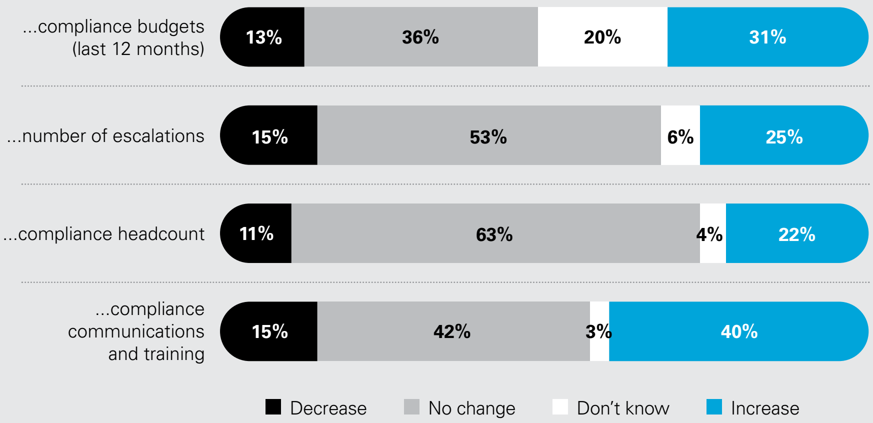
Source: 2023 Global compliance risk benchmarking survey

Impact of remote working on compliance and investigations

KEY FINDINGS

■ Modest increases in compliance investments and efforts during COVID-19 ■ Compliance escalations increased for small and medium-sized companies during COVID-19—and declined for the largest companies ■ Compliance and Ethics headcount stayed even during COVID-19, with pronounced growth in financial institutions, consumer & retail and technology, media & telecommunications ■ Dedicated compliance headcount remains lean at small and mid-sized companies ■ Companies anticipate expanding the use of remote technologies for internal investigations during the next 12 months

In your opinion, how has remote working during the COVID-19 pandemic affected...



Source: 2023 Global compliance risk benchmarking survey

MODEST INCREASES IN COMPLIANCE INVESTMENTS AND EFFORTS DURING COVID-19

Responses show that, overall, compliance teams experienced a slight uptick in budgets, headcount and compliance activities during the COVID-19 pandemic.

Respondents were more than twice as likely to report an increase in compliance budgets than a decrease (31% versus 13%).

Companies were more likely to report an increase in compliance escalations (25%) than a decrease (15%).

Respondents were twice as likely to increase compliance headcount (22%) as decrease it (11%) during this period.

Consistent with these findings, four in ten respondents stated that they increased compliance communications and training during COVID-19.

COMPLIANCE ESCALATIONS INCREASED FOR SMALL AND MEDIUM-SIZED COMPANIES DURING COVID-19—AND DECLINED FOR THE LARGEST COMPANIES

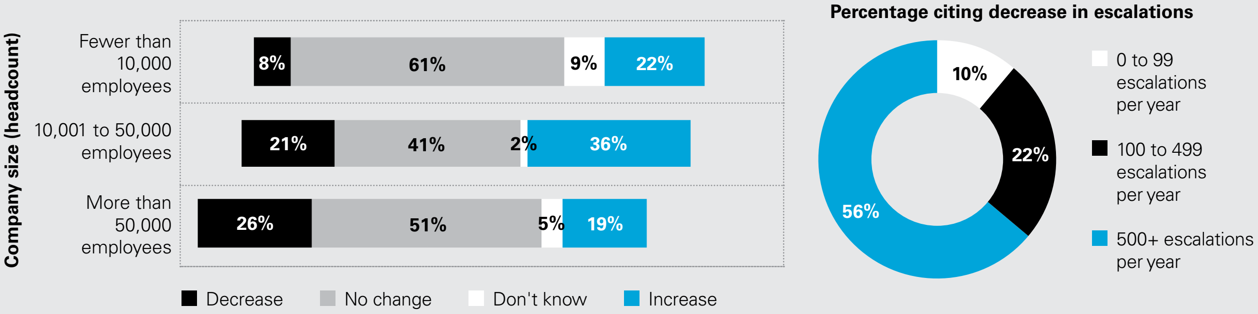
The greatest decline in escalations occurred at companies with more than 50,000 employees. While respondents were more likely to report an increase in compliance escalations than a decrease, the trend was reversed for the largest companies. One in four respondents with more than 50,000 employees reported a moderate or significant decrease (26%) in compliance escalations during the COVID-19 pandemic.

Similarly, more than 50% of companies that regularly receive high escalation volumes (i.e., 500+ escalations per year) stated that they experienced a decline in compliance escalations.

Compliance teams at these companies may wish to explore whether these declines were related to a general decrease in high-risk activities during the COVID-19 pandemic and/or whether remote working may have caused an underreporting of compliance issues, which, in turn, could inform thinking about remote work policies going forward.

> **COVID-19 normalized remote interview/meeting practices that were episodic before the pandemic**

How has remote working during the COVID-19 pandemic affected compliance escalations volume?



Source: 2023 Global compliance risk benchmarking survey

DEDICATED COMPLIANCE HEADCOUNT REMAINS LEAN AT SMALL AND MID-SIZED COMPANIES

A majority of respondents (58%) reported having fewer than 20 dedicated Compliance and Ethics staff.

55% of companies with between 10,000 and 50,000 employees reported having fewer than 20 dedicated compliance personnel.

More than two in ten (21%) companies with more than 50,000 employees reported having fewer than 20 dedicated compliance personnel. This would suggest a maximum ratio of 2,500 employees per single member of the Compliance and Ethics function.

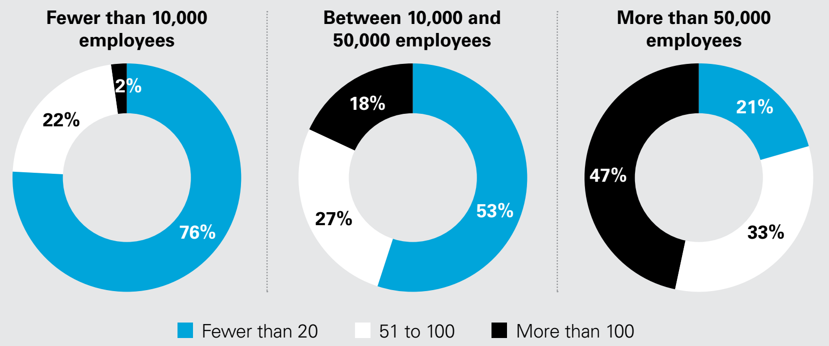
COMPANIES ANTICIPATE EXPANDING THE USE OF REMOTE TECHNOLOGIES FOR INTERNAL INVESTIGATIONS OVER THE NEXT 12 MONTHS

COVID-19 normalized remote interview/meeting practices that were episodic before the pandemic. Before February 2020, only 30% of respondents conducted most or all interviews remotely, and 13% of respondents conducted most or all meetings with government authorities remotely.

February 2020 – August 2022: 74% of respondents conducted most or all interviews remotely, and 48% of respondents conducted most or all meetings with government authorities remotely.

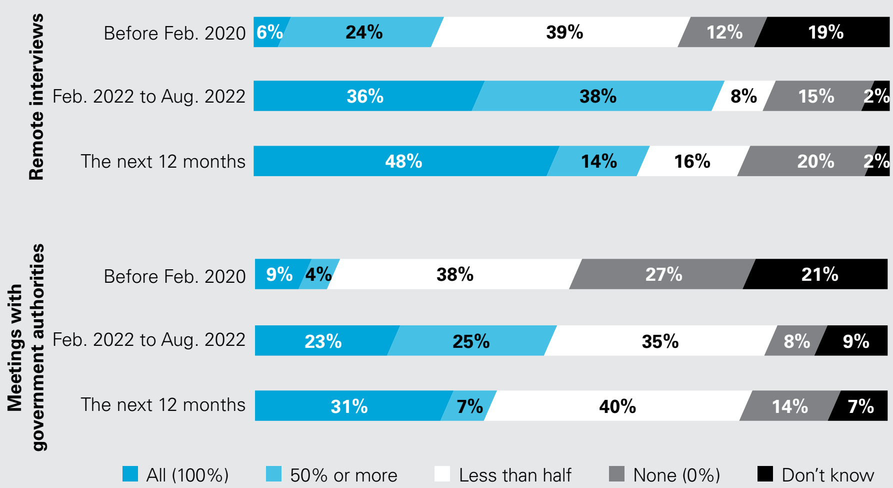
Next 12 months: 62% of respondents anticipate conducting most or all interviews remotely, and 38% of respondents anticipate conducting most or all meetings with government authorities remotely.

Excluding internal audit, how many people in your company are responsible for carrying out the Compliance and Ethics function?



Source: 2023 Global compliance risk benchmarking survey

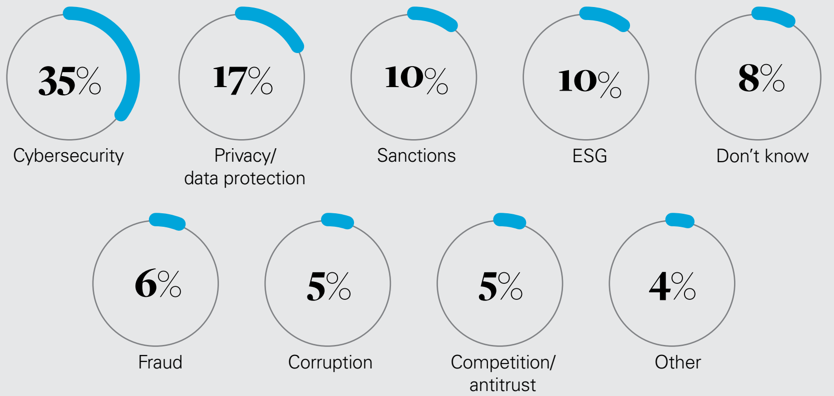
In internal investigations, what percentage of the following activities were/will be conducted remotely in the following time periods?



Source: 2023 Global compliance risk benchmarking survey

Looking to the future: Cybersecurity tops the list of compliance priorities for the next 12 months

What is the biggest compliance issue facing your organization in the following 12 months?



Source: 2023 Global compliance risk benchmarking survey

Cybersecurity is seen as the biggest compliance issue across the board (scoring 35%) for both public and private companies, and for companies of all sizes.

It was also the focus for all industries, other than technology, media & telecom, which considers privacy and data protection as its main priority.

Survey methodology and demographics

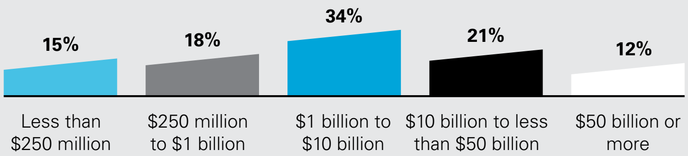
Survey methodology

White & Case LLP and KPMG LLP developed a survey questionnaire consisting of 65 questions. Questionnaires were made available using several different methods, including social media and direct email contact. Potential participants received a link to an online survey platform, which allowed completion on both desktop and mobile formats. Participants could save their progress in the survey, but were encouraged to complete it in one sitting. Data was collected without identifying the respondent over a period of four months, from June to September of 2022. A total of 201 respondents from companies with headquarters across 34 countries and six continents completed the survey, and 40% of respondents were headquartered outside of the United States.

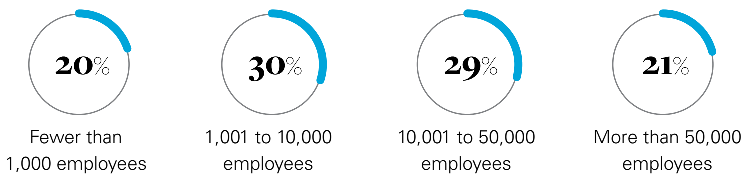
Demographics

- 201 respondents
- Headquarters in 34 countries across six continents
  - 40% headquartered outside of the United States
- 60% publicly listed companies
  - 50% US-listed and 10% non-US-listed
- 28% with business operations on one continent; 40% reported operations on six continents
- Respondents occupied various positions within their respective organizations and represented companies from more than six distinct industries that ranged in size from fewer than 1,000 employees to more than 50,000 employees, and in revenues from less than US$250 million to more than US$50 billion.

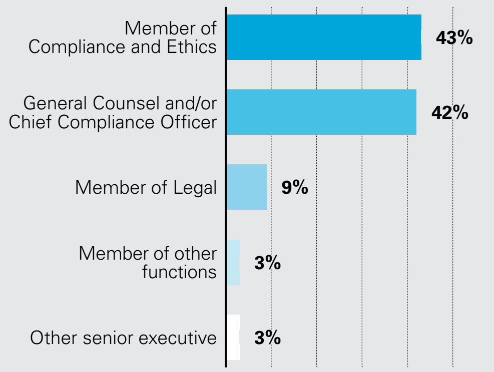
Annual revenue (US$)



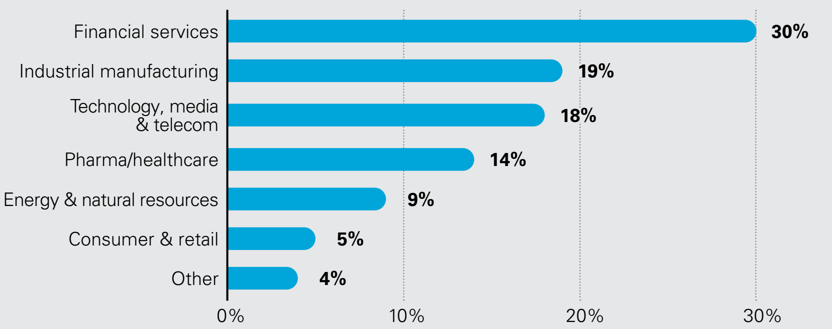
Company size by headcount



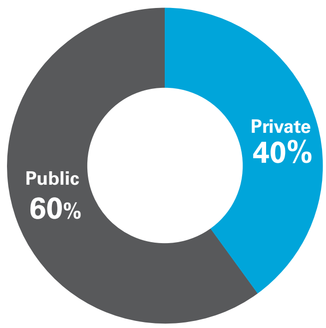
Respondent's role



Company industry



Listing status



*Percentages in graphs may not sum to 100% due to rounding

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