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DLA PIPER'S 2017 COMPLIANCE & RISK REPORT:

COMPLIANCE GROWS UP

INCREASING BUDGETS AND BOARD ACCESS POINT TOWARD GREATER PROMINENCE, INDEPENDENCE

THE WINDS OF CHANGE SWEEP THROUGH COMPLIANCE

Much has happened around the globe since we issued DLA Piper's *2016 Compliance & Risk Report*. Voters in the United Kingdom shocked the world by voting to leave the European Union last summer – and then Donald Trump defied predictions that said he wouldn't be elected president of the United States last fall.

We held those geopolitical developments in our thoughts as we started planning for our 2017 survey. Specifically, we wanted to know, how do boards of directors view the current state of corporate compliance in an era of deepening uncertainty? And how do those views compare with the perspective of compliance executives, the individuals tasked with the daily responsibility to ensure organizations stay within the bounds of constantly evolving rules?

In my career, I've been a chief compliance officer and a director, so I understand these different, but closely related, perspectives. Still, many of the disparities revealed by this year's survey surprised me.

It's important to acknowledge these differences and to try mightily to close lingering communication and knowledge gaps between directors and compliance executives. In fact, in the era we live in, it's absolutely vital.

With these important thoughts in mind, I'm proud to present the second annual DLA Piper *Compliance & Risk Report*.

Stasia Kelly

Co-Chair of DLA Piper's Global Governance and Compliance practice

Co-Managing Partner (Americas)

EXECUTIVE SUMMARY

Improvements to compliance programs, likely combined with recent political changes, are helping to reduce compliance executives' concerns about personal liability. At the same time, the compliance function is becoming more independent and prominent in large organizations worldwide – though there remains significant room for improvement, especially in compliance's relationship with boards of directors.

Those are among the top findings in DLA Piper's ***2017 Global Compliance & Risk Report***. Amid an uncertain global compliance landscape – following the election of Donald Trump, and Brexit, among other factors – compliance professionals and directors from international and US companies noted improvement and diminished concern about personal liability, even as they shared many of the same lingering worries.

This year, 67 percent of chief compliance officers surveyed said they were at least somewhat concerned about their personal liability and that of their CEOs, down from 81 percent in 2016. And 71 percent said they made changes to their compliance programs based on recent regulatory events – up from just 21 percent a year earlier.

71% made changes to their compliance programs based on recent regulatory events

But clearly, there is more work to be done. The fact that two out of every three respondents remain concerned is significant – and indicates that an evolving compliance landscape, both in the US and abroad, still keeps many executives up at night. It could also indicate a general sense that compliance executives should never rest easy.

"You can never rest on your laurels – and there's always something new out there. If you're not moving forward, you're falling behind," said one CCO. "That's the expectation of senior management and the board – that we'll always be looking to improve our programs."

2 out of 3 chief compliance officers surveyed remain concerned about personal liability

The level of concern among members of boards of directors – surveyed for the first time this year – was even higher: 82 percent of directors said they were at least somewhat concerned about personal liability. This is likely related to other findings that show lingering kinks in communications channels and a persistent lack of training for directors. Together, these findings indicate that the relationship between the compliance function and boards needs work – despite efforts taken by organizations to upgrade their compliance program.

The following report analyzes the findings of this year's survey, which we've broken into three categories, and provides practical guidance for organizations.

Resources

In 2016, 77 percent of compliance executives told us they had sufficient resources, clout and board access to support their ability to effectively perform their jobs. This year, 84 percent said they felt that way. The improvement is possibly a reflection of the increased percentage of respondents who actually had the resources to make changes to their compliance program, compared with the 2016 findings.

It also points to another trend evident in our survey results. Respondents are increasingly able to affect change, procure adequate resources, access senior leadership and run strong compliance programs, even in the absence of heightened regulatory risk or enforcement. Taken together, these data points indicate that the compliance function is gaining independence and stature within organizations. They could also point to compliance officers' growing ability to demonstrate the value of compliance beyond risk management. "Compliance officers have to think like a business person to make an impact," one CCO told us.

38% said their budget was not enough

Meanwhile, the percentage of respondents who said their budget was not enough to accomplish their goals increased from 28 percent in 2016 to 38 percent. This could reflect business growth; one respondent noted that growing companies require additional compliance resources. "We are a growth company so compliance budgets need to stay in line with product developments," the respondent said.

Compliance professionals who don't feel they have sufficient budgets may need to focus on convincing senior leadership, including boards. According to our survey, 53 percent of directors strongly agree that their compliance group has sufficient resources, clout and board access. Just 29 percent of CCOs answered the question that way. While this could simply reflect a difference in perspectives, it could also show that some CCOs aren't communicating their needs effectively. "It's incumbent on the CCO to let people know at the board level if you don't think you have the resources," one CCO told us. "If there's a compliance issue a year later, you can't say you didn't think you had what you needed."

Reporting Structure

Further illustrating compliance's growing prominence in corporate structures, the number of CCOs who report to the CEO increased compared with last year, while the number who report to general counsel or chief legal officers decreased. Still, respondents indicated a desire to continue climbing the corporate ladder. This year 37 percent of respondents said they believed compliance should report to the board – up from 29 percent in 2016. This could simply reflect the natural desire to move up the food chain. But it also likely reflects a growing focus on board oversight and an increased emphasis on ensuring boards understand the compliance function.

Of greater concern, many directors appear to be receiving inadequate reporting and training on compliance matters. About a quarter of both CCOs and board members said the compliance function at their organization reports to the board less than once per quarter – a remarkable finding. "When you realize the ramifications of board membership, it's hard to operate without those regular reports from compliance," said one CCO.

There also was a noticeable difference in direct reporting to boards between public- and private-company respondents. CCOs at public companies had more board access, and public-company directors are more aware of their heightened liability exposure. "At the end of the day, regulators will hold boards accountable," one CCO told us.

Persistent Concerns

Training. In light of that perceived heightened liability exposure for directors, it is puzzling that 44 percent of director respondents said they hadn't received any training on compliance issues. Given evolving compliance standards and regulations – such as new Securities and Exchange Commission guidance on conflict minerals and updated DOJ guidance on corporate fraud – it's arguable that training is more important than ever. Failure to engage in training could amount to a breach of fiduciary duty.

The duty to train directors also falls upon CCOs. One CCO we spoke to advised thinking differently about training when it comes to boards. "Their schedules are packed. You really have to combine it with other messaging," she said. "Last year we redid our code of conduct and the board had to approve it – we used that as our vehicle for training."

Implementation. Despite the potential for increased personal liability, driving compliance initiatives remains a challenge. For example, less than half of organizations penalize employees for failing to complete compliance training. This is a confounding finding given the emergence of technology to make training more convenient for employees. But the nearly even split between organizations that use negative and positive reinforcement to incentivize training indicates how tricky the issue is. Many companies are reluctant to come down hard on employees who don't complete training, and some have tried creative incentives.

Primary Risks. CCOs' primary concerns – data security and privacy, cybersecurity and regulatory risk – haven't changed much since last year. Not surprisingly, those concerns map to the areas where compliance budgets are concentrated, according to our respondents.

Monitoring. The challenges in monitoring compliance programs continue to bedevil compliance officers – 46 percent of our respondents chose monitoring as the weakest part of their compliance program. Monitoring is particularly important in managing third-party risk, as regulators remain focused on violations related to third parties and as companies struggle to manage sprawling global organizations. "A lot of people don't have systems to monitor third parties," one CCO told us. Or they don't take the proper steps to investigate and potentially clear red flags that their monitoring uncovers. "That's monitoring," he said.

37% said they believed compliance should report to the board

WHAT CCOs (and Boards) NEED TO KNOW

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Taken as a whole, this year's survey data reveals encouraging trends – the growing independence of compliance programs and the support they're receiving in the form of increased resources and program improvements. But it also depicts a concerning gap in the relationship between compliance and directors. In an effort to assist compliance officers in closing that gap, we have assembled a set of basic principles and best practices for board communication, training and counsel.

BOARD EXPERTISE

- **Be selective.** In searching for new board members, consider their expertise and experience in compliance and, as appropriate, sub-specialties like cybersecurity.
- **Training.** Many boards are targeting key members to train on compliance-related matters. This may include subjects like compliance generally, privacy, cybersecurity, anticorruption and risk assessments.
- **Share the knowledge.** Once you've identified board members with the requisite compliance expertise, it is imperative that they share their knowledge and facilitate discussions at board meetings on those compliance issues.

MULTINATIONAL ISSUES

- **Calibrate your compliance program.** Directors should ask questions to ensure that the compliance program takes into account the geographic spread of the organization's operations and the value and risk profile of the business conducted in each jurisdiction, and that discipline for compliance violations is relatively consistent across all jurisdictions.
- **Be flexible.** Multinational organizations must remain nimble and avoid falling into the trap of applying one-size-fits-all strategies. What works in one jurisdiction may not work as well in another.
- **Respect local laws, customs and language preferences.** Make sure your code of conduct and policies and procedures are available in the language(s) most commonly spoken among employees. Promote awareness of the hotline and the importance of compliance in a way that will resonate with the local employee population and confirm that reports are handled in a consistent and timely manner across all jurisdictions.

BOARD REPORTING

- **Move beyond simple hotline statistics.** Many companies regularly report only hotline statistics and investigation resolution information. While this is a good start, the data has more to reveal. Consider adding a data analytics perspective to identify trends and potentially predict future issues before they happen.
- **Take a risk management approach.** Apprising your board or audit committee of how you conduct risk assessments and presenting those results to them allows them to understand and challenge how you have assessed the company's legal and regulatory risks. This is a crucial oversight function and provides an opportunity to make sure that the board/audit committee is aligned with the compliance program priorities.
- **Talk to your board/audit committee about resources and staffing.** In exercising their fiduciary duties, your board/audit committee needs to have a clear picture of how the compliance program is resourced and functioning. Ultimately, they will be held accountable for weaknesses in the compliance function, so make sure they know what resources you have and what you need.

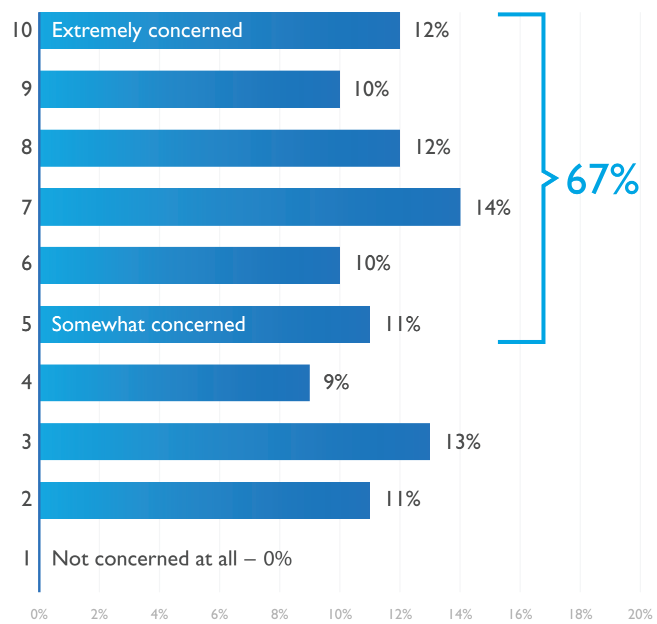
BOARD TRAINING

- **Assume nothing.** Training is supposed to be educational, and some directors may not wish to let on that they do not have a working knowledge of the training topic. Don't be afraid to spend a few minutes "setting the table" for a training discussion by first addressing the legal or regulatory context in which the topic is presented.
- **Make it relevant.** Focus discussion around board members' responsibilities and tactical strategies to ensure they are fulfilled. In addition to educating directors about the applicable laws and regulations, make sure they know how the company's compliance program is designed to promote adherence to them while mitigating risks. Consider suggesting areas they may probe with other senior executives to better understand how compliance is perceived and what the business units are doing to operate compliantly.
- **Directors are very busy people.** Deliver the training in a manner designed to get the biggest bang for the buck. Strive for interactive discussions. It may help to talk with them first to understand their backgrounds and what engages them.

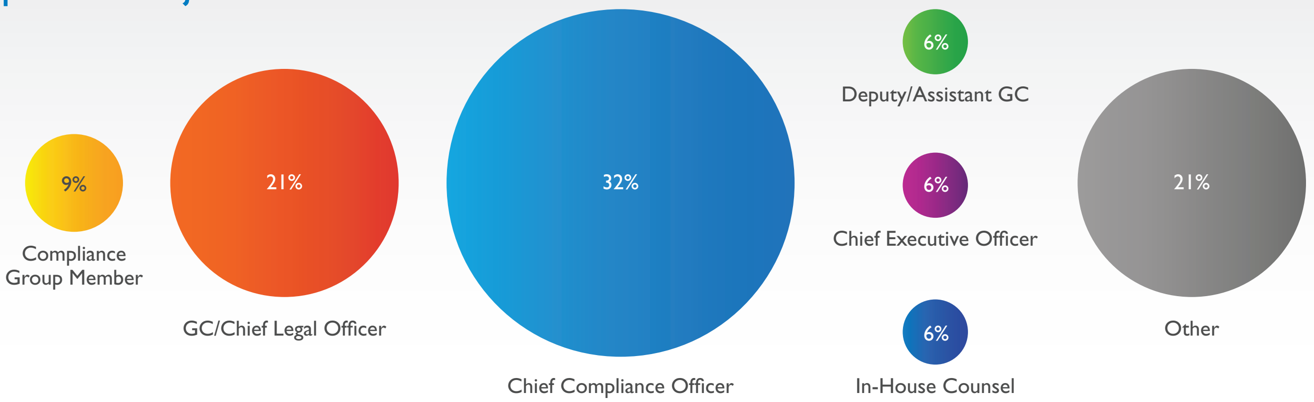
SURVEY FINDINGS
COMPLIANCE EXECUTIVES

Q1. On a scale of 1 to 10 (with 10 being greatest), how concerned are you about your personal liability as a CCO or the personal liability of your company's CEO?

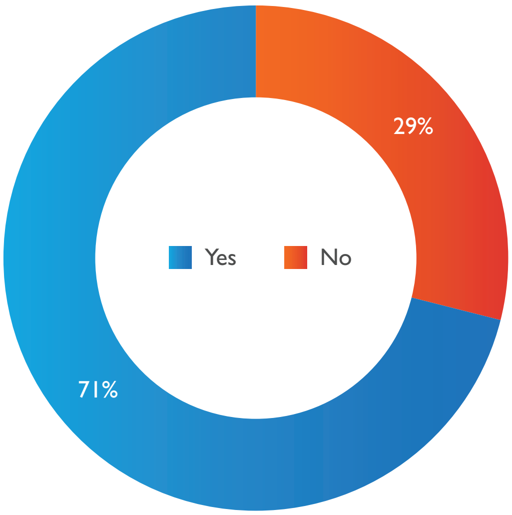
- While the level of concern has fallen from 2016, when 81 percent of CCOs told us they were concerned about personal liability, about two-thirds of respondents remain at least somewhat concerned. The drop-off could be attributable to the changes made to compliance programs, as seen in responses to the subsequent question.
- It could also indicate that respondents, at the time of the survey, were assuming that the new administration will back away from the aggressive prosecutorial postures of the Obama years. It's also possible that respondents' concerns have lessened because there has not been a proliferation of individual prosecutions since the Yates Memo was issued.
- We strongly caution against assuming the Trump administration will be less aggressive. In late April 2017, Attorney General Jeff Sessions said the Department of Justice would largely maintain Obama-era policies with respect to white collar crime, notably regarding the Foreign Corrupt Practices Act – which Trump had previously criticized.



Respondents' job titles:



Q2. Have you made changes to your company's compliance program based on recent events in the regulatory environment?



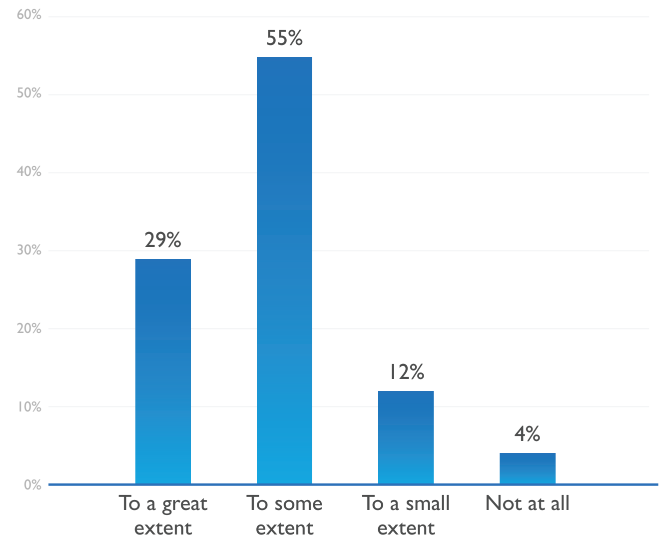
- Likely in response to recent regulatory shifts, nearly three-quarters of compliance executives said they had made changes to their programs. The high percentage probably reflects a heightened fear of prosecution in the wake of the Yates Memo and other public indications of the DOJ's intent to aggressively pursue corporate wrongdoers.
- The upswing could also reflect the continued maturation of the compliance function. Companies should constantly look to improve their compliance processes, especially as compliance enforcement in Washington takes shape under President Trump. In April 2017, Attorney General Jeff Sessions pledged to "continue to strongly enforce the FCPA and other anti-corruption laws," and asserted that corruption "harms free competition, distorts prices and often leads to substandard products and services coming into this country." President Trump had previously and strongly criticized the FCPA.
- Organizations should think long and hard before assuming that a relative lack of post-Yates prosecutions, or the Trump administration, reduces the risks of regulatory or criminal actions. Prosecutions can take years to play out. And in February – after the inauguration – the DOJ's Fraud Section issued guidance on what it considers relevant in assessing compliance programs within the context of a criminal investigation. We see no indications that federal authorities are lowering their expectations for corporate behavior and compliance.

"The new US Administration has made clear it will continue to focus on effective compliance programs, individual accountability and tone and conduct at the top. So now is not the time to scale back on corporate compliance — companies must remain ever-vigilant in ensuring their ethics and compliance programs meet, or exceed, the standards and expectations of US and foreign regulators.

– Angela Crawford, Partner

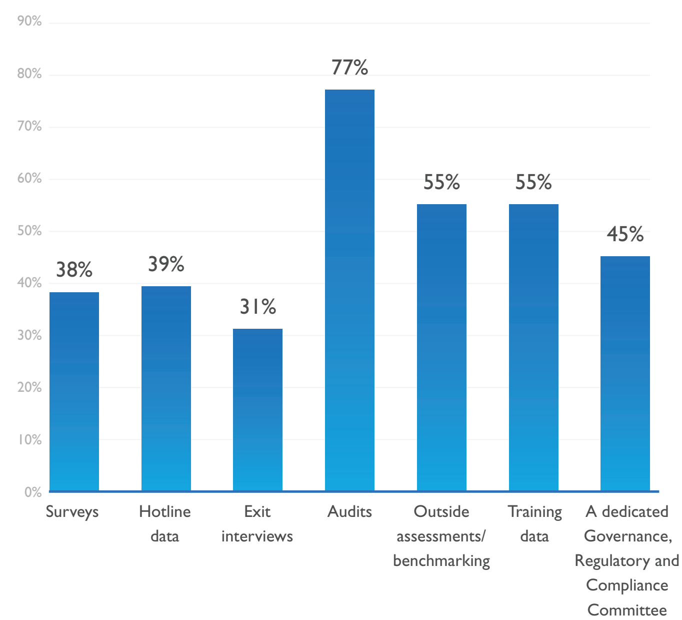
Q3. To what extent do you believe you have sufficient resources, clout and board access to support your ability to effectively perform your job?

- This year 84 percent of executives said they had sufficient resources to some extent or to a great extent. That's up from 77 percent in 2016.
- The increase could be another sign that the widespread angst we recorded among compliance professionals last year fueled changes, including increased resources – and it may help explain the reduction in angst we see in this year's survey results.
- Whatever the underlying reasons, the fact that more compliance professionals feel their budgets are adequate is a further indication of compliance's growing prominence in the corporate world. It likely reflects the increasingly common recognition that adequately funding compliance produces satisfactory returns by helping organizations avoid costly inquiries and remediation.



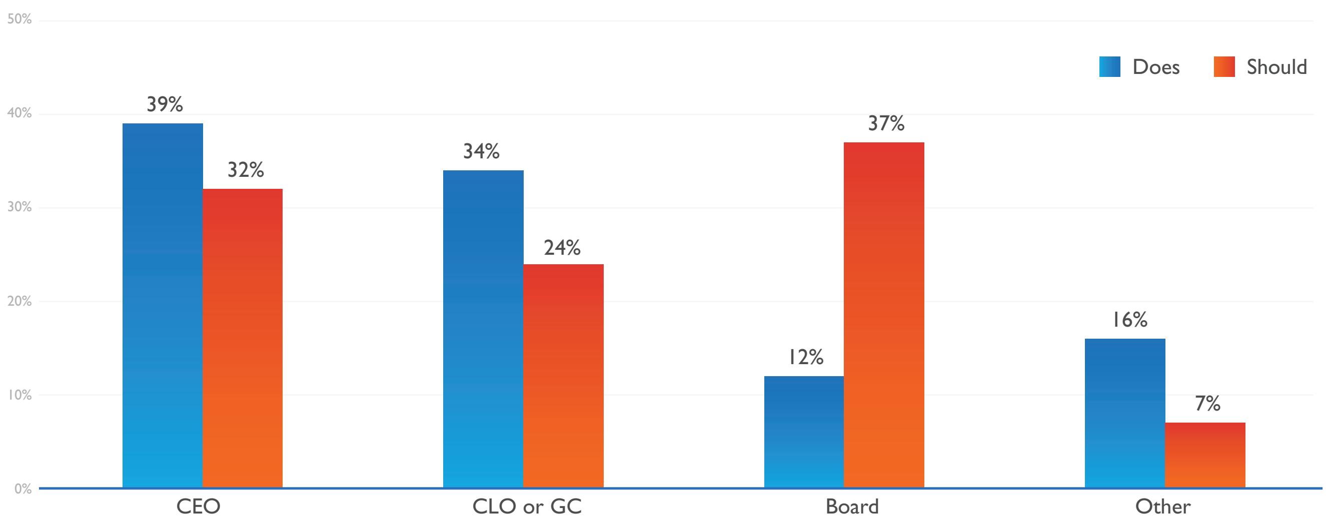
Q4. What tools do you have and use to evaluate the effectiveness of your company's compliance program?

- The top tools for evaluating compliance programs remain the same as in last year's survey. This is not surprising, as these are the key measures of compliance effectiveness.
- Respondents who selected "Other" noted a wide range of additional methods, from SEC and FINRA exam results to ongoing incidents monitoring (for assessing training efficacy) to a dedicated ethics and compliance committee of the board.
- Whatever methods, the key to measuring compliance is to continue moving away from check-the-box metrics and toward measuring effectiveness. "Compliance is on an evolutionary journey," one CCO told us. "From 'Does it exist?' – do you have a code and hotline, yes or no – to 'Is it effective?', meaning is it truly helping deter the business from unnecessary risk?"



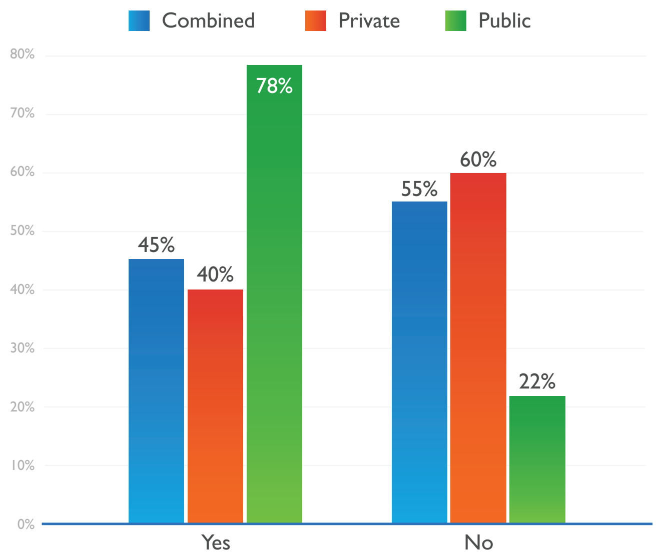
Q5. At your company, to whom does the compliance function report?

Q6. Where do you believe the compliance function should report?

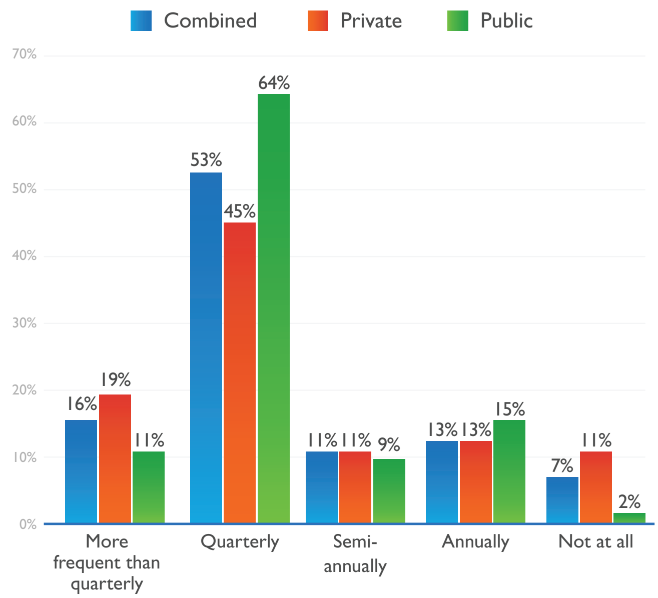


- The percentage of compliance officers who report to the CEO jumped from 25 percent last year to 39 percent this year. Correspondingly, the percentage who report to the CLO or GC dropped from 44 percent in 2016 to 34 percent this year.
- This appears to be a clear indication of the growing recognition that compliance is a vital business function. As more CEOs awaken to that reality – and to the fact that they could face personal liability for compliance breakdowns – we expect to see even more pull the compliance function into their team of direct reports.
- The increased percentage of CCOs reporting to the CEO instead of the general counsel could also indicate organizations' intention to signal greater independence for the compliance function. Legal departments are often viewed as advocates for their organizations, whereas regulators – particularly in agribusiness, healthcare and banking – have shown that they prefer to see compliance operating as an independent evaluator.
- On the other hand, the results could indicate that general counsel who report directly to CEOs are increasingly taking on the roles and titles of chief compliance officers.
- The percentage of compliance officers who believe they should report to the board jumped from 29 percent last year to 37 percent this year.
- While that could be a reflection of natural ambition to keep moving up the corporate ladder, it should be noted that boards have a responsibility under federal sentencing guidelines to monitor compliance programs. It's also important for boards to get an independent picture of compliance separate from senior leadership.

Q7. Do you report metrics to your company's board of directors and/or audit committee?



Q8. What frequency of reporting is expected from the compliance group?

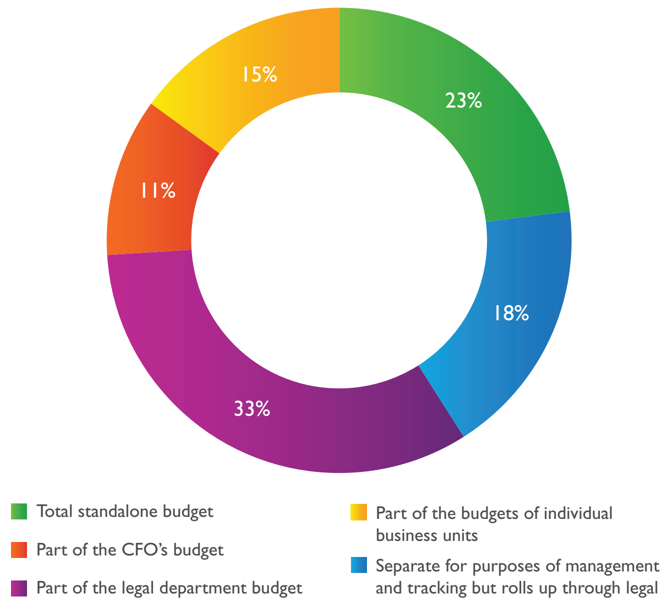


- Only a little less than half of respondents said they reported metrics directly to their boards. And while 69 percent report to their boards quarterly or more frequently (53 percent report quarterly, 16 percent more often), 20 percent report only annually or not at all.
- However, 78 percent of respondents who work at publicly traded companies said they report metrics directly to their boards. As we would also expect, only 40 percent of their private-company counterparts make similar reports.
- And 75 percent of public-company respondents report metrics to boards quarterly or more often, compared to 64 percent of their private-company counterparts.

- In this day and age we find it surprising that any compliance officer would report to their board once per year or never. It's possible that some of those respondents may report through other means – perhaps they are included as portions of the general counsel's quarterly board presentations. But given the increased liability and risks for executives and directors alike, it is important that compliance officers report metrics to the board on at least a quarterly basis.

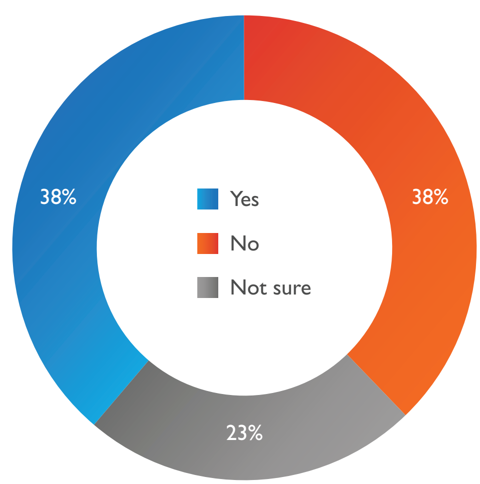
Q9. Does the compliance function have its own budget or is it part of another department?

- Even as compliance departments gain independence and prominence, fewer than a quarter of our respondents reported having standalone budgets. And one-third said they were part of their legal department's budget. This is consistent with last year's findings.
- Over time we expect to see a shift toward standalone budgets. Budget and independence are both areas that regulators have said they look to in determining whether corporations take compliance seriously. "One of the things the DOJ has been pretty firm about is making sure the CCO not only has access to leadership but also that they have the budget and the standing to show they're a key part of the business," one CCO told us.

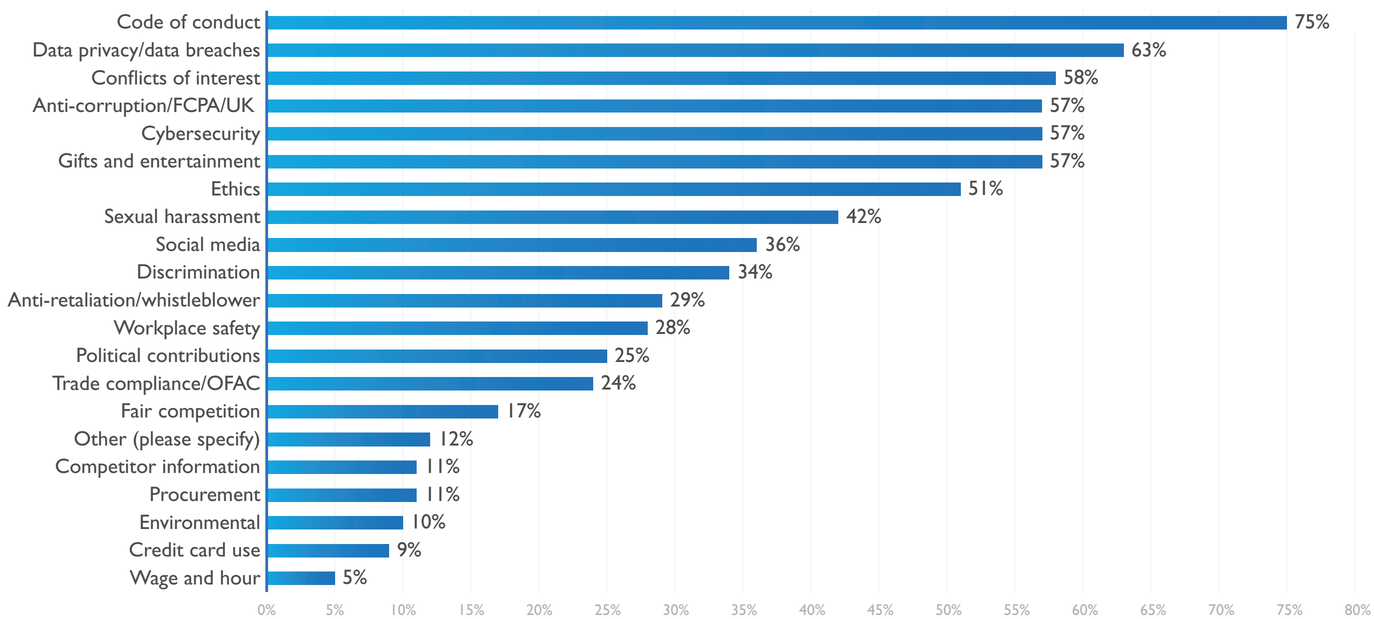


Q10. In your opinion, is your budget sufficient to accomplish the goals you believe are needed for an adequate compliance program at your company?

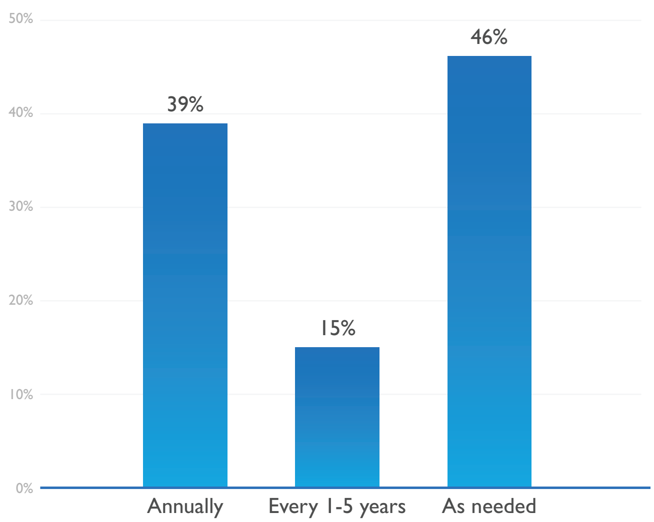
- While more compliance executives reported having sufficient resources this year, the percentage who don't feel they have sufficient budgets to accomplish the goals necessary for adequate compliance jumped from 28 percent in 2016 to 38 percent this year.
- This could point to a natural inclination to keep pushing for additional resources and budget, highlighting the gap between what compliance officers consider "sufficient" and their more aspirational "goals."
- It could also reflect the pace of change in the compliance space; compliance officers who feel they have sufficient resources today may be less sanguine about their budgets moving forward as regulations, rules and expectations shift.



Q11. In terms of subject matter, what training programs has your company's compliance program focused on in the last 12 months?



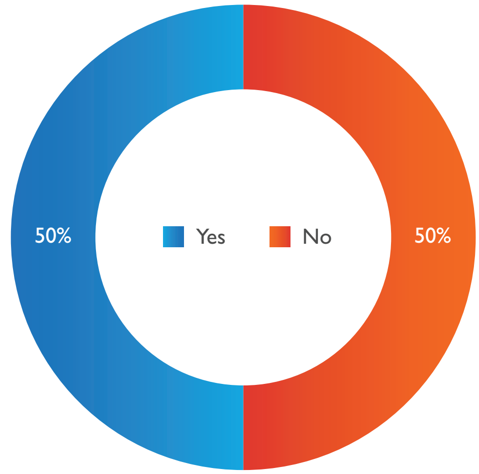
Q12. How frequently do you update or change your company's training programs?



- The focuses of training and frequency of updating largely stayed consistent with the 2016 results.
- CCOs are using a wide array of tools to keep their training fresh. Many noted the use of gamification, e-learning, awareness videos and even instant messaging to replace traditional committee structures.
- One CCO said, "Using more videos and alerts to drive messaging. Conforming news events into teachable moments, combined with videos and links to policy, hotline and subject matter experts. 30-40 min training is dead, if I want my training to 'click & stick' – it needs to be frequent, quick and funny/engaging."
- Another CCO we spoke with said training is a good example of where compliance executives need to balance the next big thing with budget constraints. "It's always a balance about the resources you have and how to deploy them. It's always in the back of your mind that there might be something really useful out there, if I only had the money."

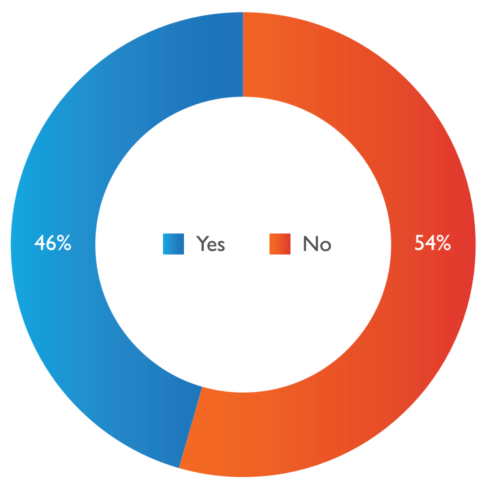
Q13. Do you encounter resistance from the C-suite, board or audit committee when requesting annual budget increases?

- Last year 47 percent of respondents said they had encountered resistance on annual budget requests.
- We asked respondents how they'd been successful in overcoming resistance. "Focusing on value added of a strong compliance program (marketing, sales, market perception) rather than only on risks of non-compliance," one CCO told us. "Turning the compliance function into a profit center is key," another said.

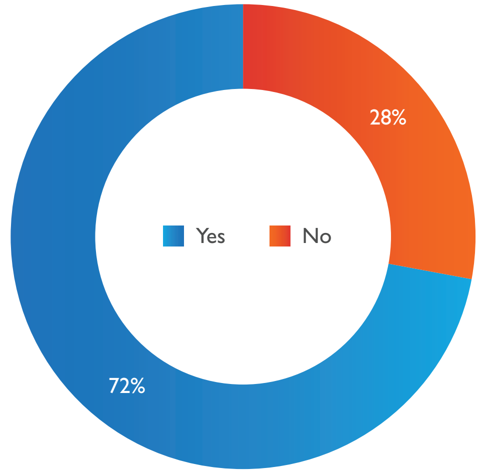


Q14. Are employees penalized for failure to complete training or certifications of policies?

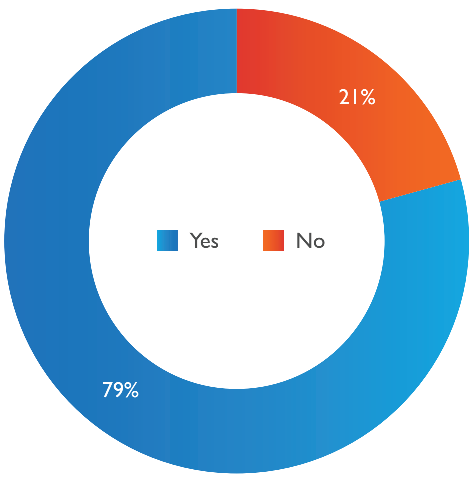
- These findings were in line with last year's results. Very few respondents noted fines against employees who failed to complete certification or training – but some noted that failure to follow procedure might show up on an annual review. "Raises and promotions are dependent upon compliance," one respondent said.
- This shows a tension between the idealism that everyone should be trained and the practical difficulty in actually getting it done. As one respondent put it, "We chase them until they comply."
- Some organizations are using incentives rather than penalties. "We promote success and make it competitive," one respondent said. "The first region to complete its code training gets an extra day off. The second one gets a party."



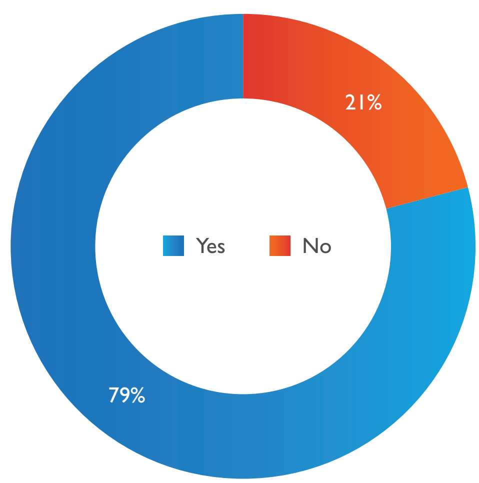
Q15. Have you established a formal, written crisis management protocol or invested in a data breach response plan to guide you in the event of a crisis?



Q16. Do you have business continuity and disaster recovery programs in place as part of your company's compliance programs?

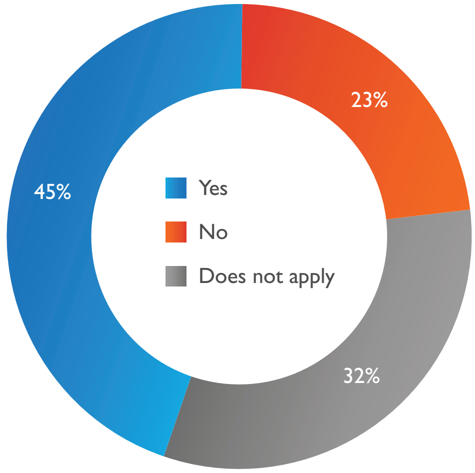


Q17. Do you have a crisis response team identified in the event of a crisis?



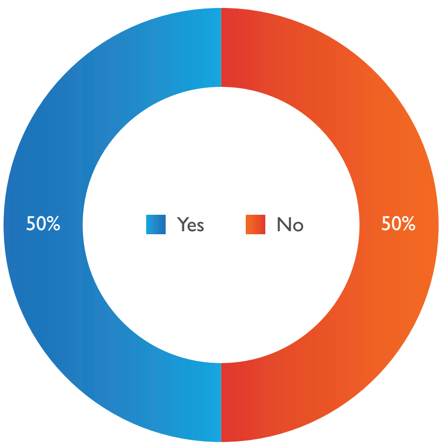
- Respondents' answers to the preceding three questions were all roughly in line with the findings in 2016.

Q18. Does your company's privacy/compliance program address the new data protection laws around the world (European Union, Russia, Hong Kong, etc.)?

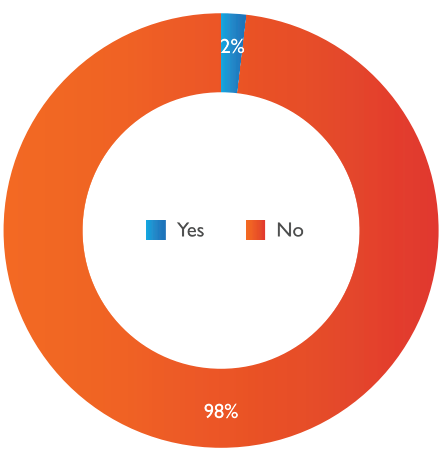


- Nearly a quarter of respondents said they hadn't addressed new data protection laws in their compliance program. This creates significant exposure in each of these jurisdictions. In Europe for instance, the new General Data Protection Regulation will take effect on May 25, 2018. Companies that fail to comply will be subject to hefty fines amounting to up to 10 percent of their total EU revenue.

Q19. Does your company have cybersecurity insurance?



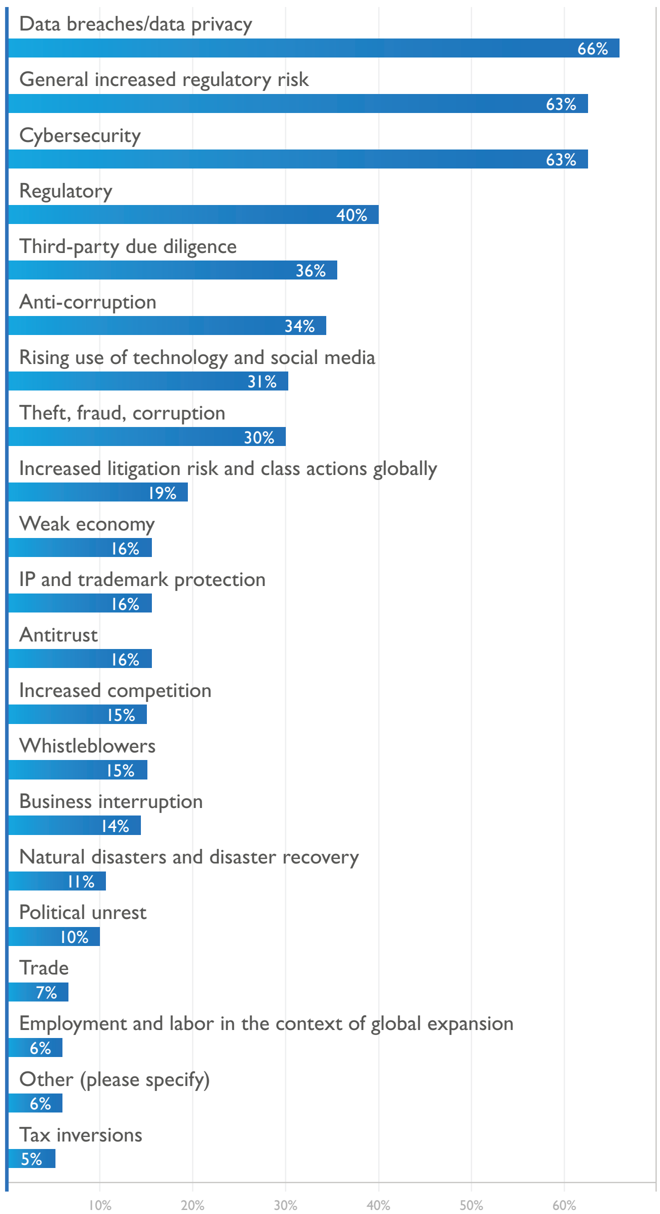
Q20. Has your company ever filed a claim against that policy?



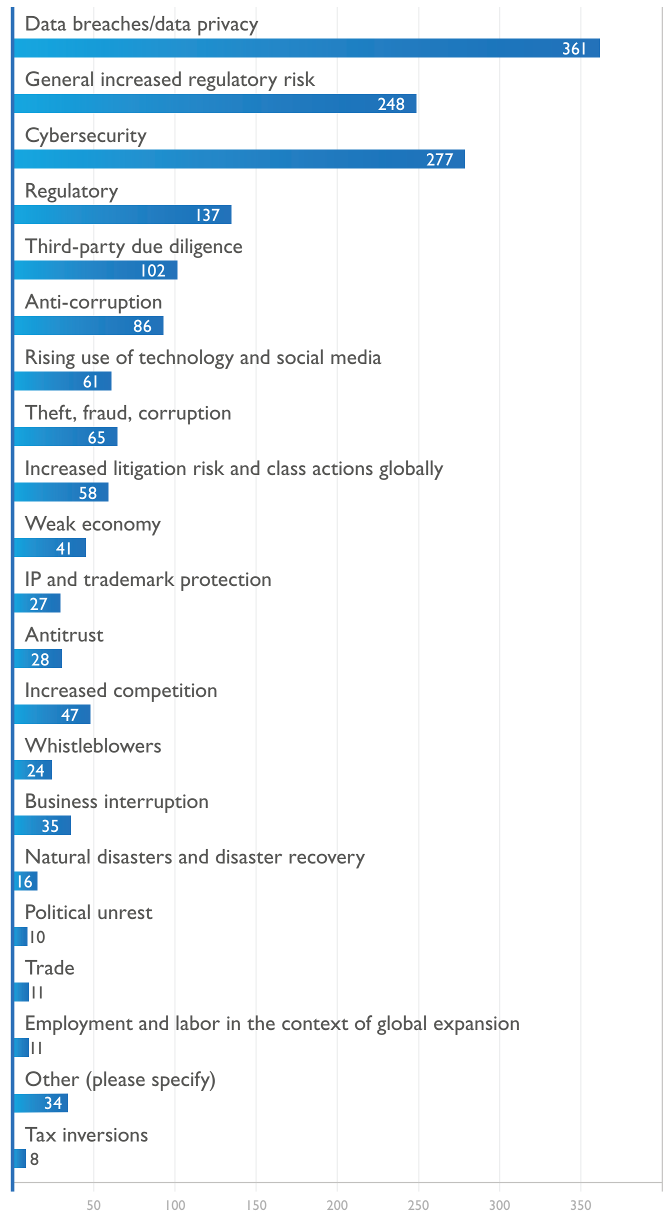
Cybersecurity and data-breach risk is particularly challenging because it is a dynamic risk that can't be solved simply through a compliance approach. The cost of this risk can be very high, and it is no surprise that companies are turning to table-top exercises and insurance to mitigate it.

– Jim Halpert, Co-Chair, US Cybersecurity practice; Co-Chair, Global Data Protection, Privacy and Security practice

Q21. What are the biggest compliance risks that your company faces today?

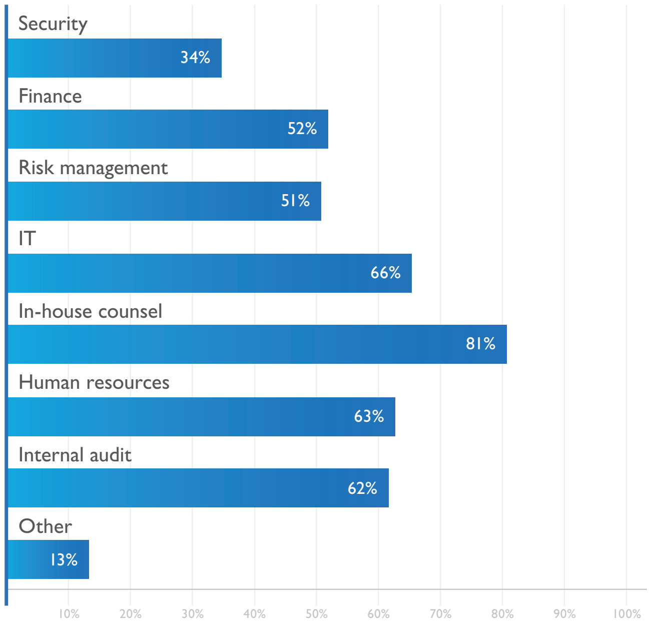


Q22. On which of these compliance risks is your company spending the most resources?

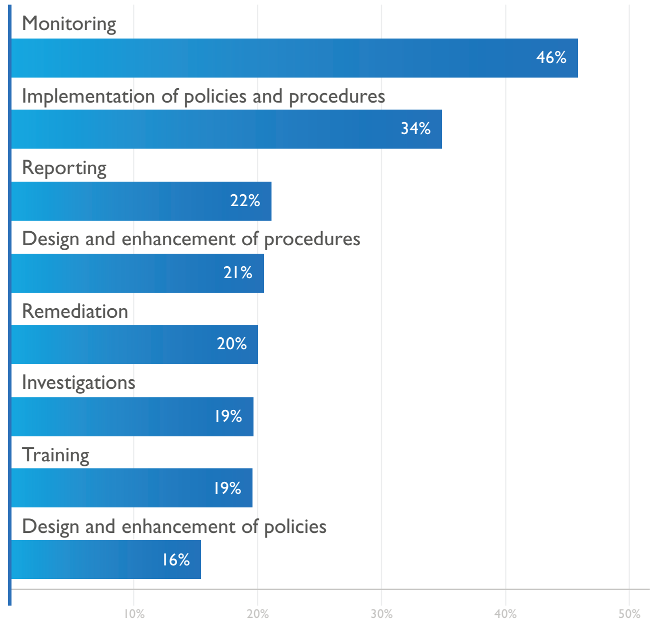


- The same top five risks were identified by respondents in the 2016 and 2017 surveys. The top three risks also tracked with the areas where CCOs said their organizations are devoting resources.
- That data breaches topped the list again isn't surprising as financial, regulatory, legal and reputational risk are all at stake when a breach occurs. Breaches are also extremely difficult to address – as doing so is more complex than simply issuing new policies and conducting training.
- That general increased regulatory risk – despite the change in administrations in Washington – continued to score high makes sense.

Q23. What internal resources do you currently leverage as part of your company's compliance program?



Q24. In which of these areas do you feel your company's compliance program is weakest?

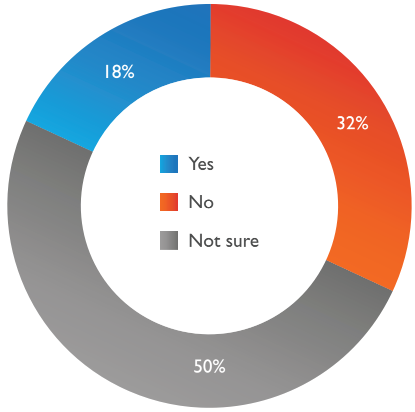


- Nearly half of compliance executives consider monitoring the weakest link in their program. Last year 66 percent considered monitoring the weakest; the drop to 46 percent this year is a sign of progress – and possibly a reflection of receiving greater resources – but clearly there is work to do in this critical area.
- Monitoring is becoming increasingly challenging as organizations grow more complex and geographically dispersed. Monitoring third parties is particularly difficult, and requires not only performing due diligence but documenting how decisions are made. "You've got to have systems to screen against lists of bad actors, and you've got to note when you get a false positive and why you cleared that person anyway," one CCO told us.
- In last year's report we provided guidance for CCOs struggling with monitoring. Gathering first-hand observations, embedding compliance in business units and asking smart questions remain effective methods for improving monitoring.

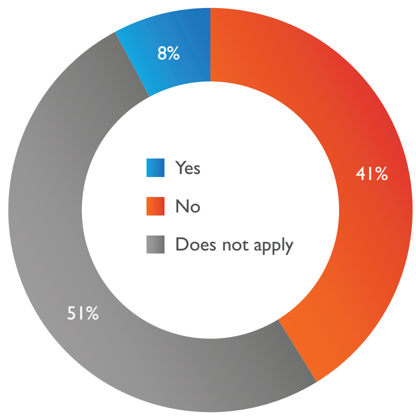
From a monitoring perspective, there is no substitute for periodic site visits. Actually being on the ground, interviewing employees and understanding how the controls work in each jurisdiction is critical to ensuring that your compliance program is operating effectively.

– Brett Ingerman, Global Chairman, Compliance and Governance practice

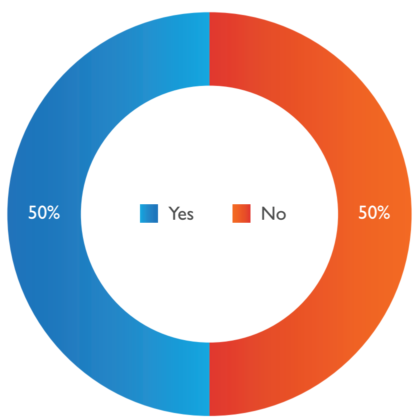
Q25. Do you plan to implement or incorporate changes in your company's compliance program due to the introduction of ISO Anti-Bribery Standards (ISO 37001)?



Q26. Does your company have any ruling or agreement in place with one of the member states of the European Union relative to international tax structures?



Q27. Has this structure been stress tested regarding the recent EU definition on state aid?



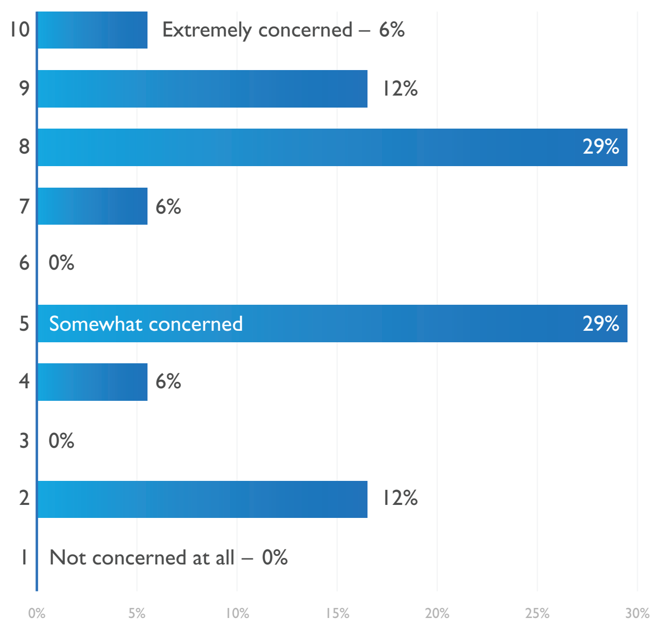
- While a small set of executives (8 percent) said they had rulings or agreements in place with EU member states, only half of those said they had stress tested those agreements. In light of the European Commission's recent classification of some such agreements as unlawful state aid, firms that have such agreements should consider stress testing them. Stress testing involves a thorough analysis of the legal and economic arguments behind the agreement to assess whether it could be viewed as a specific tailor-made tax deviation. Agreements that don't pass the test should be modified quickly; failure to make that assessment or to correct them could result in being forced to pay back the tax benefits received.

“Regulatory compliance, and its importance to safeguarding shareholder value, is top of mind for CEOs around the world. The best-performing companies resist short-term thinking and focus instead on long-term brand building, in which global regulatory compliance is a cornerstone of success. In light of recent developments, a key area they should be focused on today is the requalification of international tax structures as unlawful state aid in the EU.

– Bob Martens, Partner

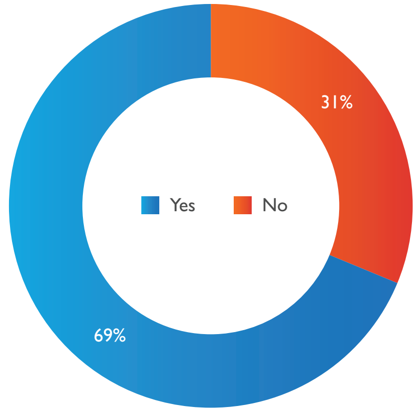
SURVEY FINDINGS
BOARDS OF DIRECTORS

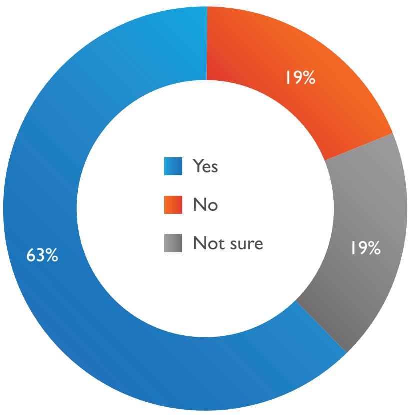
Q28. On a scale of 1 to 10 (with 10 being greatest), how concerned are you about corporate or individual liability resulting from a compliance failure?



- Directors remain deeply concerned about both personal and corporate liability to a far greater extent than the compliance executives who took our survey. Fully 82 percent of director respondents said they were at least somewhat concerned, compared to 67 percent of compliance executives.
- This most likely reflects a recognition that boards face civil liability as a result of almost any compliance failure. The responses to this question show that directors are well aware of this risk.

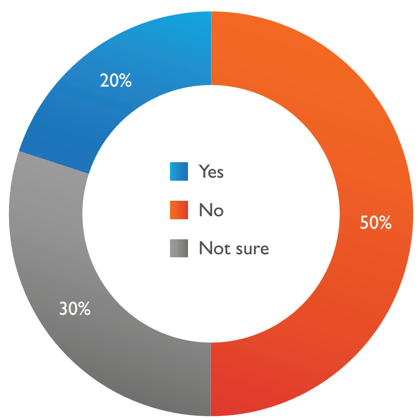
Q29. Is there a structure in place that makes you confident as a board member that management is candid and prompt about getting bad or challenging news to the board?





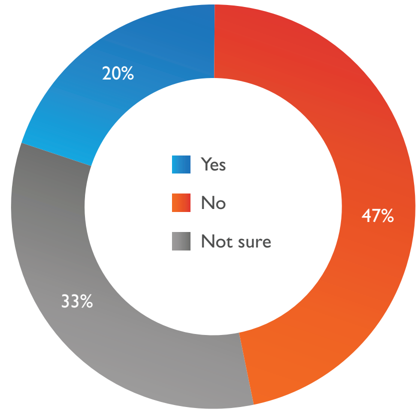
Q30. Do you have a crisis management protocol that addresses compliance failures?

Q31. Have you tested your crisis management protocol through a tabletop exercise?

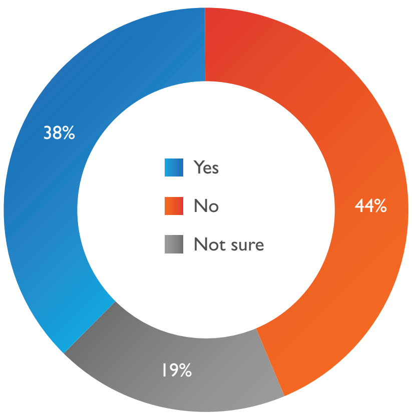


- Almost 40 percent of director respondents said they either didn't have a crisis management protocol or weren't sure whether they had one or not.
- While it's likely that some directors who responded "no" are simply unaware of their companies' protocols, we nonetheless find the responses troubling. Every company should have a crisis management protocol, and directors should be made aware of what protocols are in place.
- Half of director respondents said they hadn't tested their compliance management protocols through tabletop exercises, and another 20 percent said they didn't know whether they had conducted tabletop testing.
- This points to an area clearly in need of improvement. Creating and implementing a crisis management protocol is only half the battle. Protocols need to be tested to ensure their continued effectiveness and relevance.

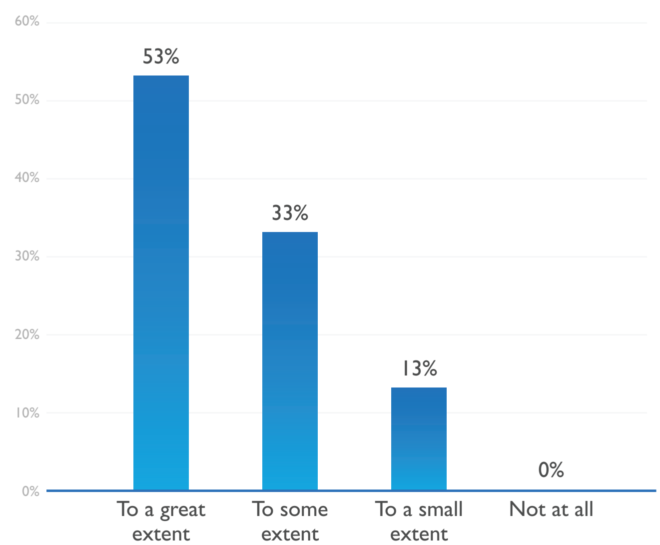
Q32. Does the BOD or BOD committee charter specifically address compliance and the role of the BOD/committee in overseeing the compliance program?



Q33. Does the charter expressly provide for the CCO to meet with directors in executive sessions?



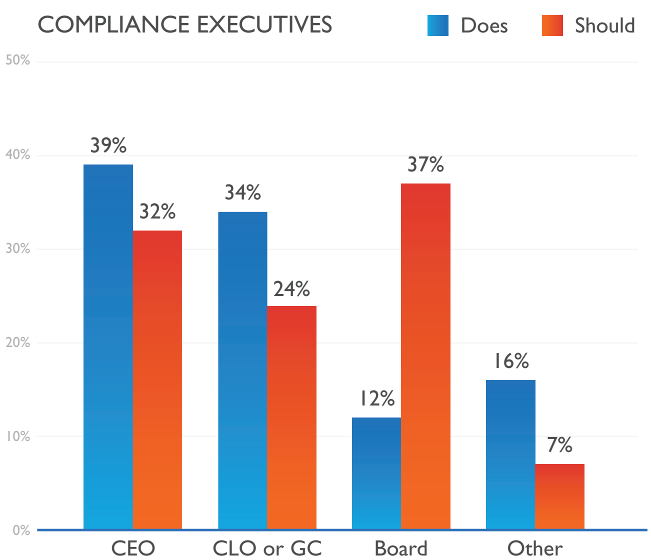
Q34. To what extent do you believe the compliance group has sufficient resources, clout and board access to support its ability to effectively perform its job?

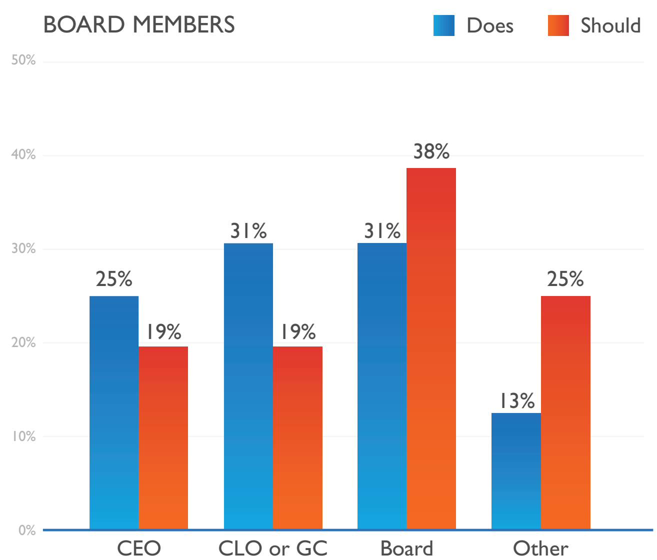


- On one hand, the percentage of directors who believe compliance has sufficient resources to at least some extent (86 percent) lines up with the percentage of compliance executives who feel the same (84 percent).
- But 53 percent of directors said compliance had sufficient resources to a great extent, compared to only 29 percent of executives. This clearly points to either a communication issue or a gap in perspectives on what constitutes sufficient resources.

Q35. At your company, to whom does the compliance function report?

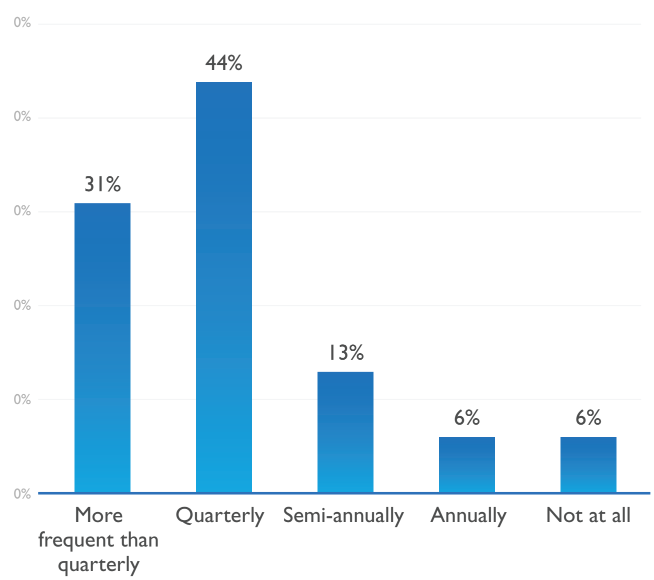
Q36. Where do you believe the compliance function should report?



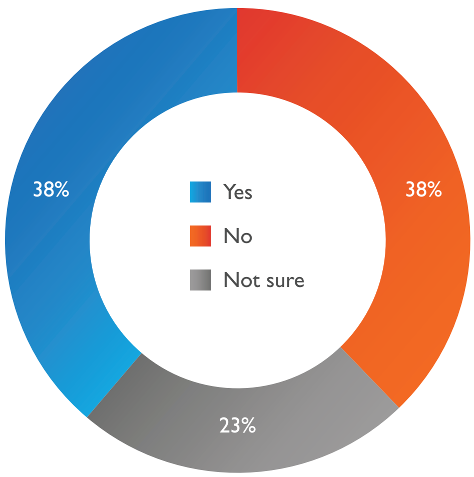


- The gap between whom compliance actually reports to and whom it should report to is narrower among board members than among compliance executives.

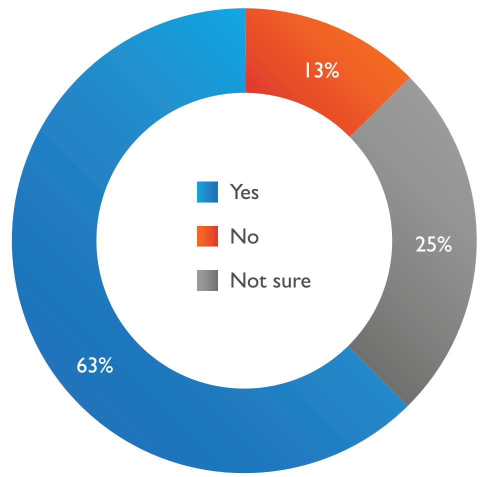
Q37. What frequency of reporting is expected from the compliance group?



Q38. In your opinion, is the compliance group budget sufficient to accomplish the goals you believe are needed for an adequate compliance program at your company?



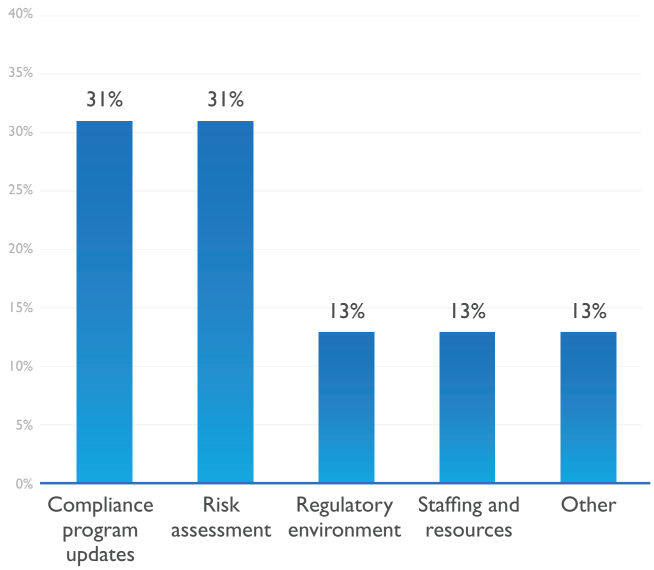
COMPLIANCE EXECUTIVES



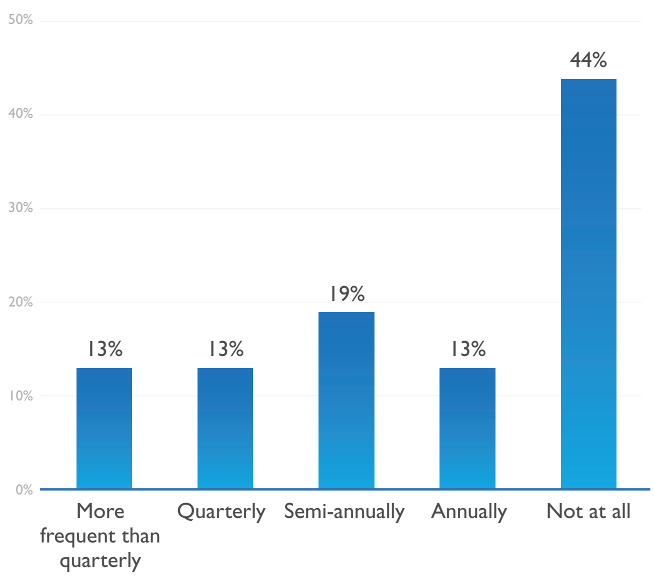
BOARD MEMBERS

- Whereas 63 percent of directors said they believed the compliance budget was sufficient, only 38 percent of executives agreed.
- This could indicate that compliance officers are not doing enough to articulate their needs to boards. It could also point to flaws in reporting structures or reporting to boards.

Q39. On what substantive topics/areas do you most often receive reports from the compliance function?



Q40. How often is the BOD trained on compliance issues?

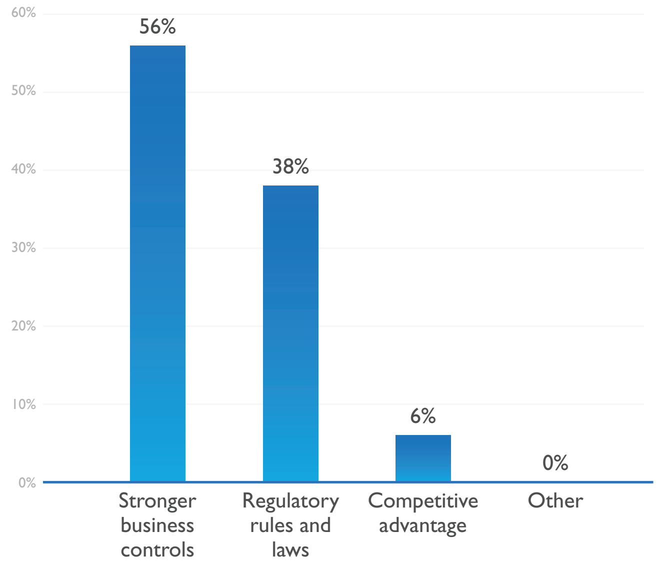


- Nearly half of director respondents said they received no training at all on compliance issues. Only 26 percent received training quarterly or more often.
- This is troubling given the critical need to provide director training. Directors should be trained on codes of conduct at the very least. Companies must train all of their employees on codes of conduct, and failure to train directors creates exposure to significant liability.

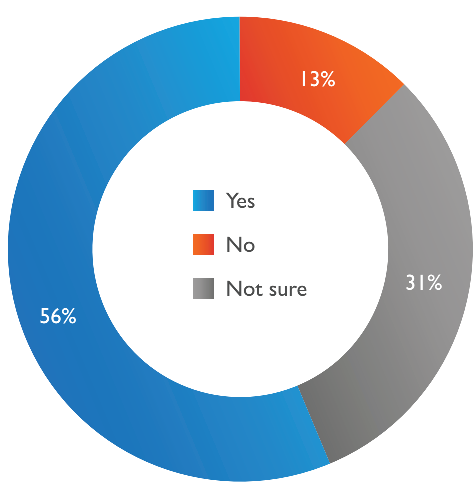
As boards increasingly focus on really understanding the compliance function, it is no longer a box-checking exercise on board agendas. At least one director on every board should be well-schooled in compliance so that the board can appreciate the risks, evaluate the control gaps and help steer the organization's risk management.

– Brett Ingerman, Global Chairman, Compliance and Governance practice

Q41. What is the main driver for a strong compliance program?



Q42. In regions where there is not a heightened regulatory risk or an actively enforced regulatory environment, do you see a benefit in maintaining a strong compliance program?



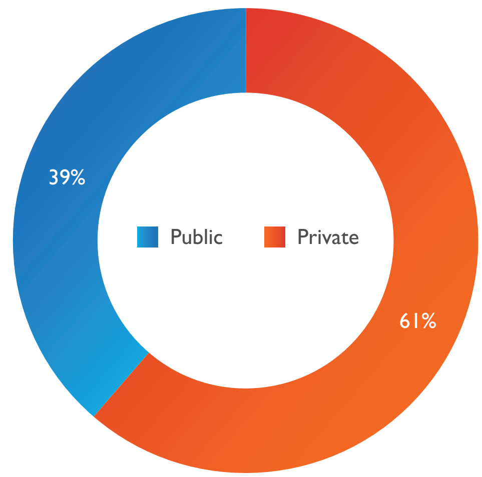
- Fifty-six percent of director respondents said they saw benefits to strong compliance programs even in the absence of heightened regulatory risk or enforcement. Only 13 percent said they saw no benefits.
- To the extent it indicates boards are aware of the business value of compliance, this finding is encouraging. That awareness should translate to greater resources, stronger reporting and support from the top. And while our other findings show room for improvement in those areas, a growing embrace of the compliance value proposition represents a good start.

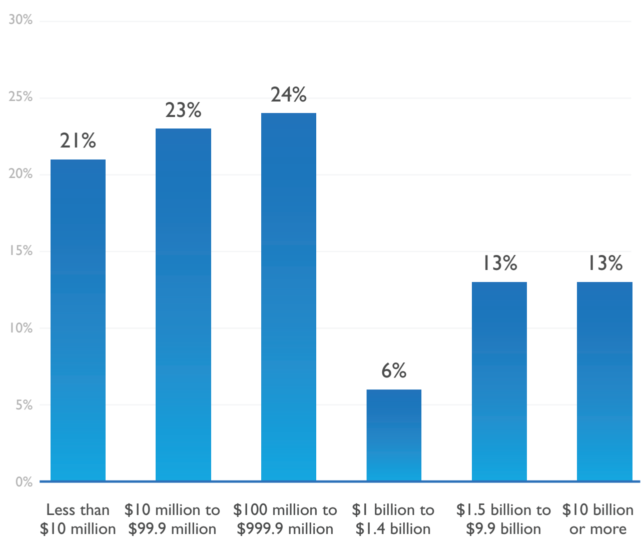
"The surge in anticorruption enforcement in China and other Asian countries has made the risks of misconduct much more immediate and personal for the local employees of multinational companies. Those risks are exacerbated when US enterprises launch their first operations in Asia, as business teams' enthusiasm for new opportunities in unfamiliar markets often outpaces their compliance teams' capacity to detect and defuse legal and reputational threats.

– Nathan Bush, Head of Investigations, Head of Antitrust & Competition, Asia

RESPONDENT DEMOGRAPHICS

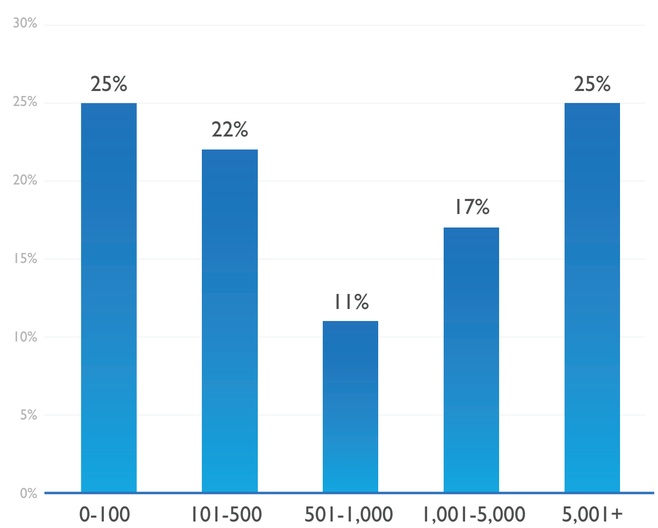
Q43. Is your company publicly or privately held?



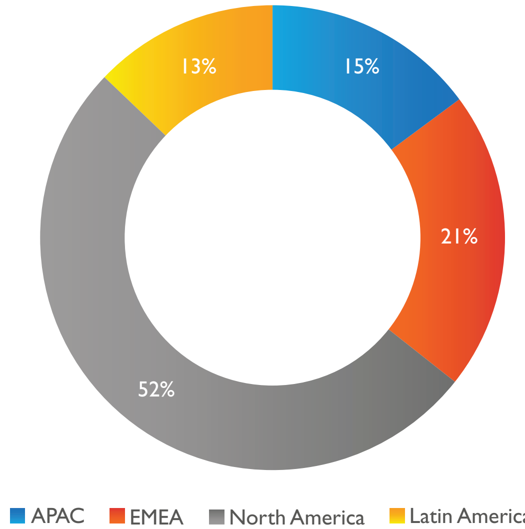


Q44. What were the FY 2016 revenues of your company?

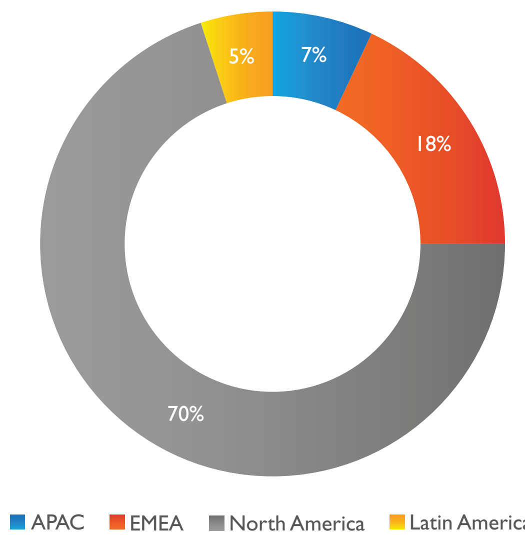
Q45. How many people does your company employ?



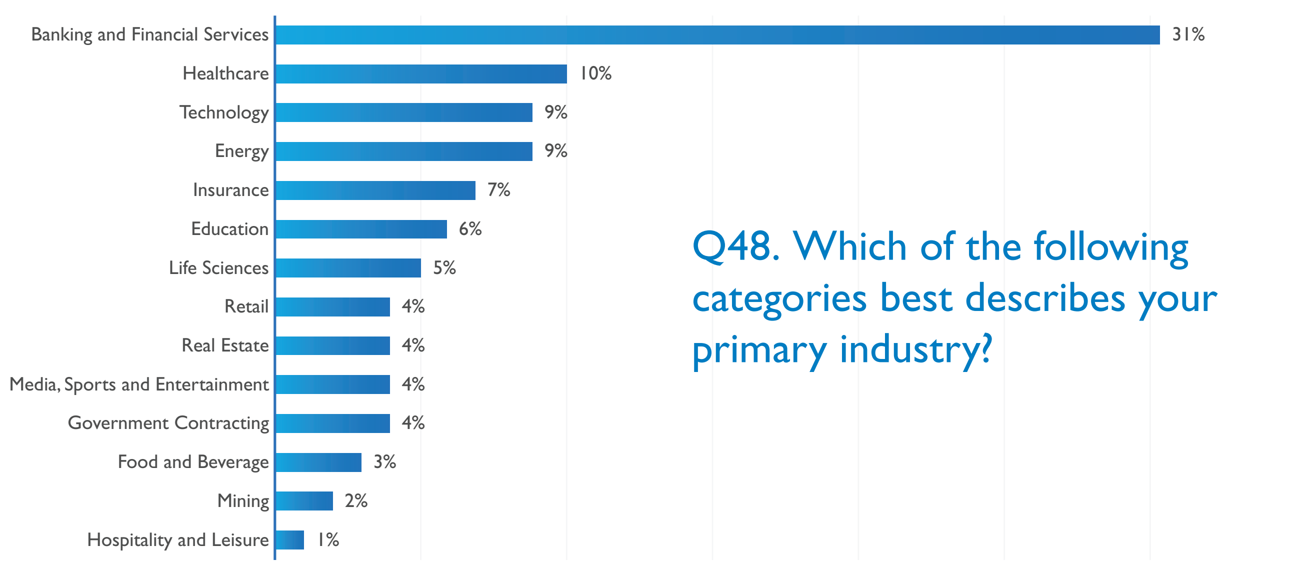
Q46. 2017 respondent revenue by country of origination



Q47. 2016 respondent revenue by country of origination



Q48. Which of the following categories best describes your primary industry?



METHODOLOGY

During the first quarter of 2017, DLA Piper distributed individual surveys to corporate in-house counsel, compliance officers and members of boards of directors at companies large and small, public and private, to better understand how they function, what risks they face and how they are positioning themselves and their organizations to succeed in an era of heightened focus on corporate conduct. The results were tabulated, analyzed and released in May 2017.

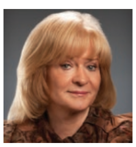
In-house counsel respondents identified themselves as GCs/chief legal officers, deputy/assistant GCs, in-house counsel and related titles. For compliance officers, respondents identified themselves as chief compliance officer or compliance group member and related titles. Directors identified themselves as member, board of directors.

In total, 137 individuals completed the survey, and subsequent qualitative interviews were conducted to add commentary and insights to the analysis of the results. We thank all of the participants for their responses.

Eighty-one percent of respondents hold the title of chief compliance officer or GC/CLO. Almost 40 percent of the respondents come from companies with US$1 billion or more in revenue. Fifty-two percent of respondents' revenue comes from North America, followed by 21 percent from Europe, the Middle East and Asia, 15 percent from Asia-Pacific and 13 percent from Latin America. Forty percent of respondents represented publically traded companies, while 60 percent represented private companies.

Percentages in certain questions exceed 100 percent because respondents were asked to check all that apply. Due to rounding, all percentages used in all questions may not add up to 100 percent.

FOR MORE INFORMATION



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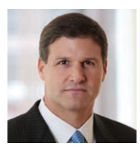

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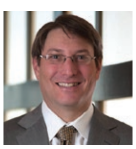

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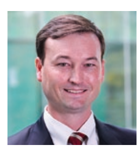

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