ECONOMY & MARKETS RESEARCH

INTRODUCTION

In an unpredictable and turbulent market, Morrison Foerster's Economy & Markets Research provides clarity and guidance on how organizations are – and should be – preparing to manage risks and key issues in 2023.

More than 170 global corporations responded to our research survey in fall of 2022. They shared with us their main focus areas for the year ahead and reflected upon some of their main challenges (talent, market conditions, data privacy, ESG, and more).

The shared insights should act as an invaluable guide for organizations on how to manage and adapt to these challenges, and hit the ground running going into 2023.

RESEARCH OVERVIEW & FINDINGS

For our Economy and Markets Research, Morrison Foerster surveyed in-house professionals around the globe and across sectors.

The top three industries represented in the study were tech & fintech, followed by finance and life sciences.

The vast majority of respondents (86%) work in their organization's legal function. 29% of respondents have C-Suite level roles.

The survey was conducted in October 2022.

This research was conducted in partnership with Lamp House Strategy, the leaders in ESG consultation to the legal and professional services sector.

Tech & Fintech	Finance	Life Sciences/Health	All Other Industries
30%	18%	10%	42%

KEY FINDINGS

- Most companies expect there will be more risks than opportunities in the months ahead. Three times as many organizations anticipate a negative impact from the economy rather than positive impact.
- All organizations are facing challenging conditions; employee retention, data privacy and cybersecurity (all of which are also part of ESG), and access to capital are three of the most pressing issues.
- Over a quarter of organizations retain a sense of optimism. These organizations believe the present economic outlook provides more opportunities for their business and are placing more emphasis on people-focused talent strategies and ESG in the year ahead.
- There are some differences along sector lines: those in the finance industry are more likely to report that employee retention is harder and that more risks are visible on the horizon. Those in the tech and fintech space have a more positive outlook about opportunities in their sector as a result of economic conditions.
- In the year ahead, organizations are likely to be focusing significant time and resources on more than one macro-level challenge within ESG: talent, data, and environmental or climate considerations emerged as the most important priorities.
- Organizational agility remains important; right now, companies are reorganizing to focus on high-value products and business lines rather than immediately resorting to cost cutting and layoffs. Proactive risk management and financial hedging are also commonly adopted strategies to mitigate against risks.

MIXED VIEWS ON ECONOMIC IMPACT

The current economic outlook and its potential impact have divided organizations. Although there are organizations expecting a negative impact as a result of the current economic outlook; many remain neutral as to its likely impact on their organization.

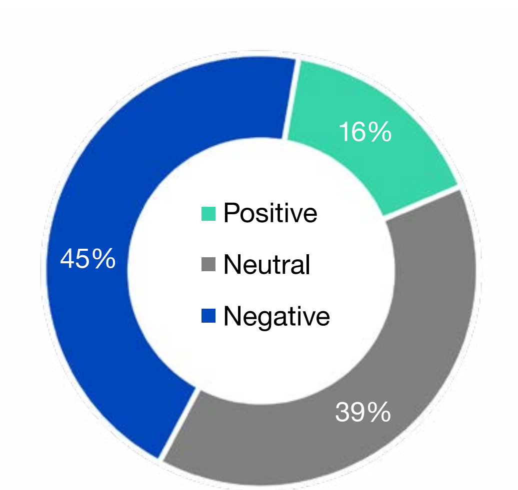
On the whole though, most companies expect to be operating in a riskier and more turbulent market.

Among those anticipating more risks, rising costs were commonly mentioned as a concern. Along with this concern, organizations also fear the domino impacts to revenue, profitability, and margins. Decreased consumer confidence and spending are also feared as other results of spiraling prices and the general macro-economic environment.

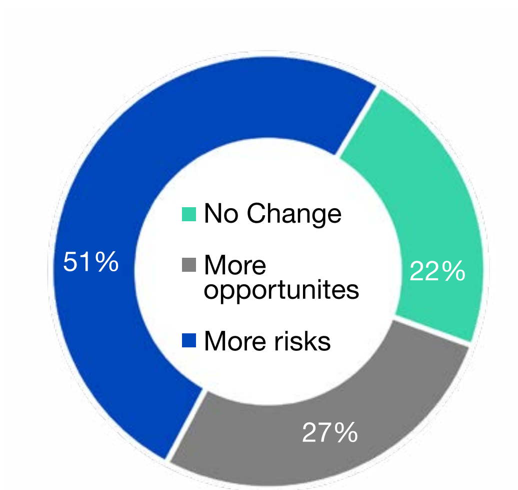
Over a third of organizations told us they had already relocated or diversified their supply chains; geopolitical volatility and market conditions mean this remains a key risk to manage in the coming year, with respondents sharing concerns about supply chain continuity and logistics. Respondents indicated that political stability, funding, and currency devaluation were further risks to consider in the current outlook.

WHAT ARE THE MAIN RISKS IN 2023?

- **"Less available cash will lead to less business for us. Rising interest rates will increase capital requirements."** *C-Suite, finance company*
- **"Macro-economic effects on stock price and reduction in buyer budgets."** *In-house legal, technology company*
- **"Supply-chain disruptions are causing enormous revenue reductions. Efforts are actively underway to repatriate off-shore operations & engage domestic suppliers as mitigation strategies."** *In-house legal, Life Sciences & Healthcare company*
- **"Lack of price certainty."** *In-house legal, real estate company*



When you look ahead to the next 12 months, would you say you are positive or negative on balance in terms of how the state of the economy will impact your organization?



On balance, do you think the current economic outlook provides more opportunities or more risks to your organization?

OPTIMISTIC ORGANIZATIONS

Despite risk-wary attitudes being more prevalent on balance, glimmers of optimism are apparent. Over a quarter (27%) of organizations believe the economic outlook provides more opportunities than risks.

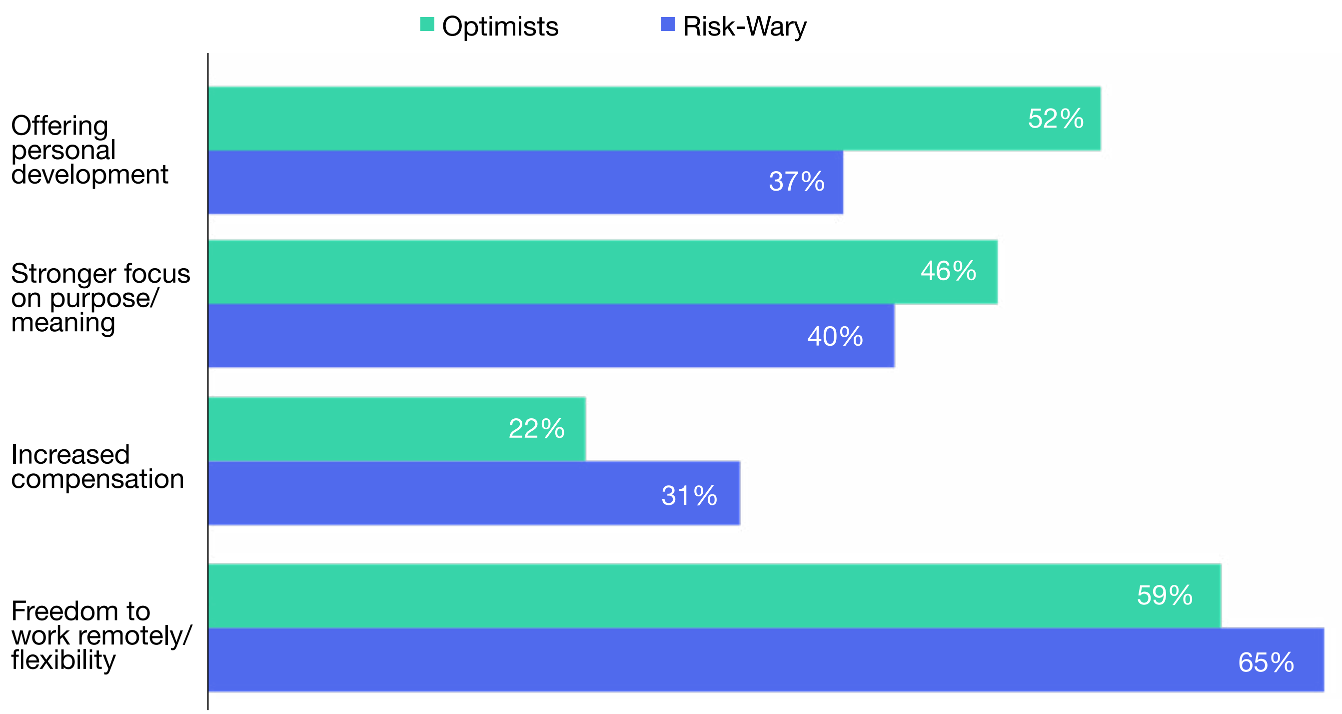
There are some differences along sector lines: tech & fintech organizations were more likely to be optimists, with 34% spotting more opportunities for the next year. This is higher than the figure for those in the finance industry (23%) and all other industries combined (24%).

As for why those in tech & fintech are more optimistic, greater acceptance of remote working within this industry has provided opportunities to enter new markets as well as created efficiencies. Digitalization in companies outside their sector has also led to sustained demand for tech & fintech organizations' products and services, such as cybersecurity. M&A opportunities were also mentioned by those in this industry.

Organizations in other sectors are also optimistic because of new opportunities afforded by the digital economy and access to government funding (for example, around new energy sources and infrastructure).

The optimist group are also set to follow a slightly different course in 2023 than those predicting more risks:

- They are less likely to restructure their business (organizationally or financially) in the next 12 months.
- They are more data-focused, with 70% of optimists set to focus on data issues in the year ahead compared to 51% of more risk-wary organizations.
- They are focusing more time and resource on ESG. 57% are devoting significant time and resources to ESG in the next 12 months, versus 47% of those anticipating more risks

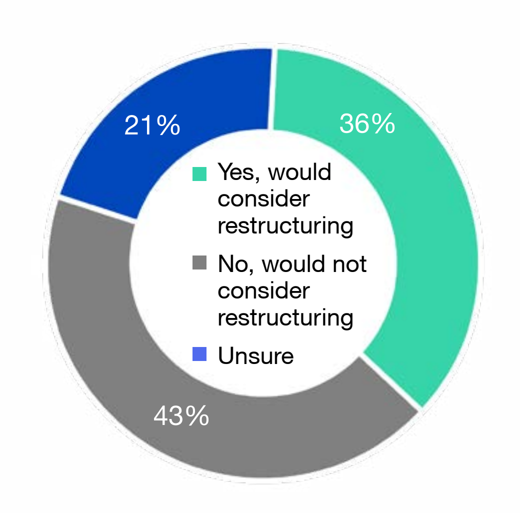


The focus on ESG is also a feature of their talent strategy. While risk-wary organizations are increasing compensation and offering remote working as ways of engaging and retaining talent, the optimists are more focused on providing development opportunities and adding purpose to everyday work.

OVERALL BUSINESS STRATEGY AND RESPONSE

After a turbulent two years, organizations are now well practiced in responding to uncertainty. Our research shows that organizations are now once again adapting to the challenges of the current economic climate.

Though organizations hinted at the prospect of layoffs and cost cutting in the months ahead, right now the focus is on pivoting strategy and operations to focus on value and efficiency.



Over a third think their business is likely to consider a restructuring in the next 12 months

36% of organizations suggested they will consider restructuring within the next 12 months to mitigate against risk. Respondents also indicated that restructurings will seek to focus efforts around growth areas within their business: reallocating resources and efforts to their most profitable products and business lines and shedding under-performing areas.

> "Business owners who successfully managed their organizations through the pandemic will be well prepared to navigate uncertainty related to the current and ever-shifting economic landscape. Effective leadership teams proactively tackled difficult decisions, including right-sizing remote workforces, streamlining underperforming business segments, addressing underutilized office space, and deploying innovation to revitalize productivity. As we view the pandemic in the near rearview mirror, successful businesses must continue to develop and deploy these tools to remain competitive and, in certain situations, to survive,"
>
> **JENNIFER MARINES**, Vice Chair of Morrison Foerster and Co-Chair of the firm's global Business Restructuring & Insolvency Group

OVERALL BUSINESS STRATEGY AND RESPONSE (continued)

Overall, proactive risk management was one of the main strategies being pursued by organizations as they navigate the current environment. This includes risk mapping exercises and gap analysis, with dedicated risk workstreams and reviews of internal processes. Additionally, looking to diversify the supplier and contractor base was mentioned as a strategic planning measure.

Financial management and hedging were other themes of risk mitigation: this included Internal Rate of Return (IRR) modeling, shoring up reserves, and a generally more conservative approach towards lending and expenses.

RESTRUCTURING TO FOCUS ON GROWTH AND VALUE

- **“Initiatives to streamline processes and reallocate staff to growth areas.”** *In-house legal,finance company*
- **“Align around more promising products and move away from products that are a drag on the company.”** *C-Suite, technology company*
- **“Slowing hiring, diversifying global footprint, focusing on value (over growth).”** *C-Suite, life sciences and healthcare company*

PREPARING FOR 2023

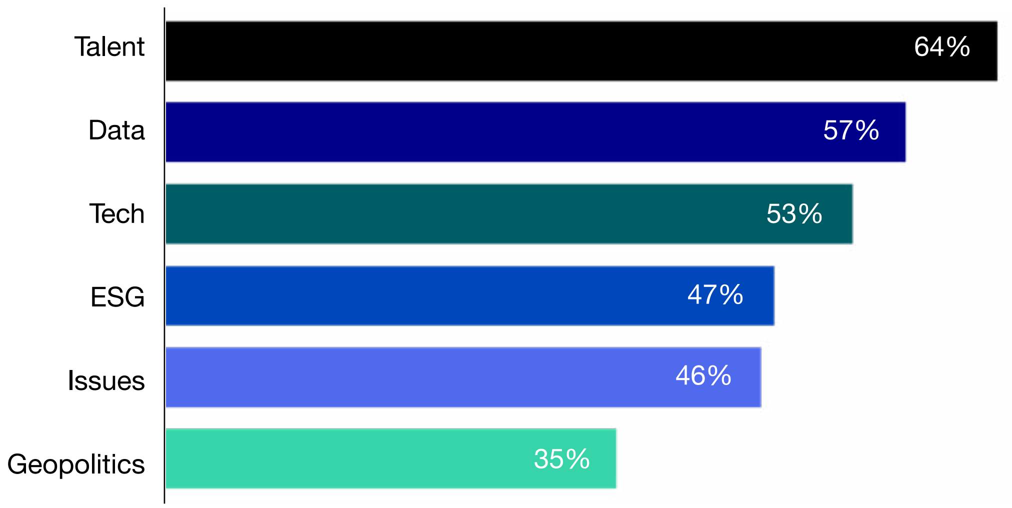
What in-house teams should do now:

- Evaluate your current compliance program: planning, risk mapping, and gap analysis
- Test risk plans with comprehensive tabletop exercises
- Strengthen internal processes and documentation
- Review portfolio construction and volatility indicators
- As you consider your enterprise risk management strategies, and supplier and customer base diversification (all of which are integral to ESG), consider including anti-money laundering, anti-bribery, cybersecurity, human rights, and climate issues as part of counterparty risk management considerations.

KEY ISSUES IN 2023

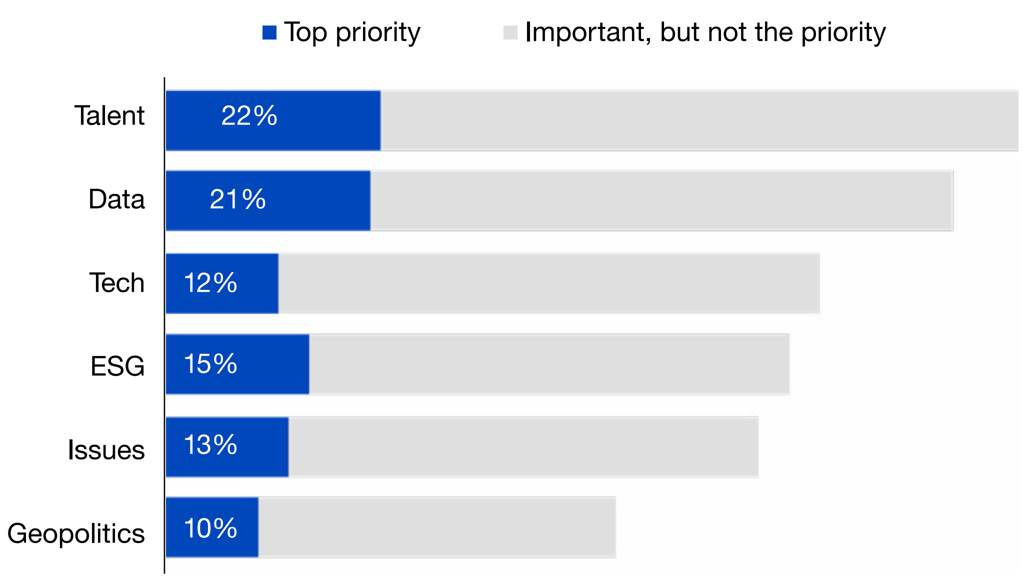
Given the current uncertain and risk-heavy climate, there is not one single issue that in-house teams will be giving their all to in the coming year. Instead, it is a mixture of macro-level challenges (that often interact with each other) which in-house teams expect to spend significant time and resource managing in 2023.

Talent, data, and technology are expected to be significant focuses for the majority of organizations. ESG and market-related issues (such as inflation, interest rates, and a strong dollar) are not far behind. Geopolitical-related issues (like supply chains and regulation) are lower on the overall agenda, though still important for a third of organizations surveyed.



When we followed up and asked organizations to choose which of their chosen areas of focus will be the most significant issue overall, the picture changes slightly. Technology, though an important focus for 53% of organizations, was only selected by 12% of those organizations as their most important focus. ESG, however, receives slightly more attention when organizations were asked to prioritize their top issue: 15% of those choosing ESG as an important factor said it was their number one issue.

Overall though, talent and data retain their position at the top of the pile as being the most common concerns, as well as the most important concerns.

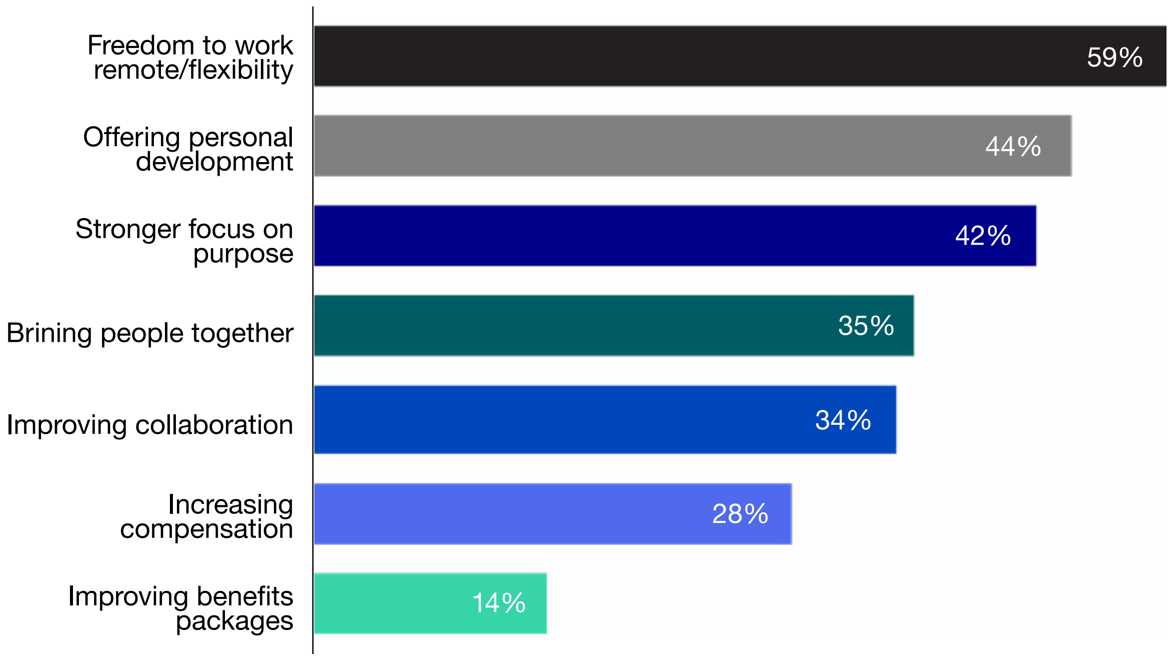


TALENT

Talent – particularly attrition and retention – has been the subject of much discourse across sectors in the last two years. Organizations surveyed suggest it will continue to be an important issue in 2023.

69% of organizations said employee retention has been harder in recent months. This figure remains high across industries, but there are some differences. 81% of finance organizations are finding retention harder, contrasted against 56% in the tech & fintech space and 72% in all other industries combined.

The strategies being most actively pursued to support talent engagement and retention tend to be more people, rather than finance, focused. Providing greater freedom to work flexibly and personal development opportunities, as well as placing more focus on purpose and meaning in people's work, were the top three strategies being utilized by organizations overall.



> "Particularly in challenging times, business leaders need to continue focusing on company morale and retaining and motivating the talent that remains. Now, more than ever, it is important for employers to put effective plans and strategies in place to keep the engine moving while mitigating broader risks to the business."
>
> **ERIC AKIRA TATE,** Co-Chair of Morrison Foerster's Global Employment and Labor Group

Interestingly, there are some sector differences: Finance, which is struggling with retention more than other industries, stands out for putting more emphasis on increasing compensation (35%) and improving benefits packages (23%). In contrast, tech & fintech companies were more likely to develop strategies that facilitate remote working (67%) and bring more purpose and meaning to people's work (41%, compared to 35% in finance).

TALENT (continued)

Alongside these strategies, the office real estate landscape is also changing. 44% of companies are pursuing a net decrease in office real estate. A fifth of these companies are already working to allocate funds for home office spaces.

43%

Expect **no change** in their current office real estate strategy

44%

Expect there will be a **net decreases** in office space

A fifth of these organizations are also **allocating funds** for employees' **home office space**

9%

Expect there will be a **net increase** in office space

HOW COMPANIES ARE RESPONDING TO CHALLENGES WITH TALENT ENGAGEMENT:

- **"We are trying to do anything and everything possible — increased wages, attendance incentives, referral bonuses, retention bonuses, etc."** *C-Suite, consumer products and retail company*
- **"Thoughtfully meeting each employee where they are and mapping a path forward with them."** *In-house legal, finance company*
- **"Global review of compensation; more focus on developing top leaders; more focus on ensuring top talent is 'stretched' and has opportunity to grow and be promoted."** *C-Suite, technology company*

PREPARING FOR 2023

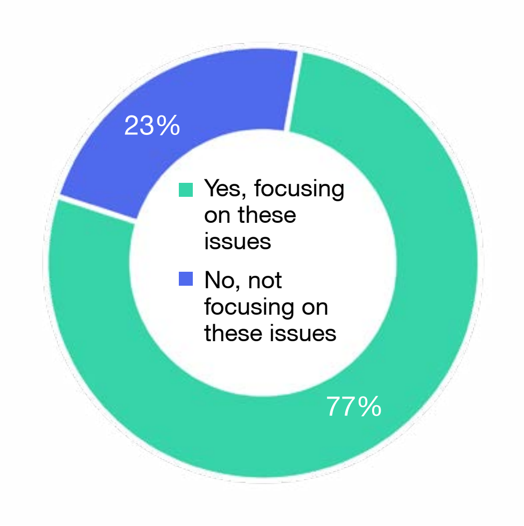
What in-house teams can do now:

- Benchmark executive compensation
- Review current, and desired, staff benefits
- Create compelling reasons to bring staff together that offer personal development or networking opportunities
- Create more meaning and purpose by raising awareness of the organization's positive impacts on customers and broader stakeholders
- Break with office norms, such as unnecessary presenteeism

DATA PRIVACY AND CYBERSECURITY

The majority of respondents expect to be spending significant time managing data-related issues in the year ahead. Currently, 77% of organizations told us they were currently facing data privacy, cybersecurity, and monetization of data issues.

Cyber threats appear to be the most prominent concern in this category at the present time – particularly issues around ransomware, malware, and phishing. Managing data compliance, both domestically and internationally, appears to be a specific concern for organizations.



77% were currently focusing on data privacy issues, monetization of data issues, and cyber threats issues

> "Given the economic headwinds, more and more companies are going to be looking at ways to gain value from the data they already collect and will need to balance those goals with the ever increasing regulatory landscape relating to data."
>
> **MIRIAM WUGMEISTER**, Co-Chair of Morrison Foerster's Global Privacy and Data Security Group

PREPARING FOR 2023

What in-house teams should do now:

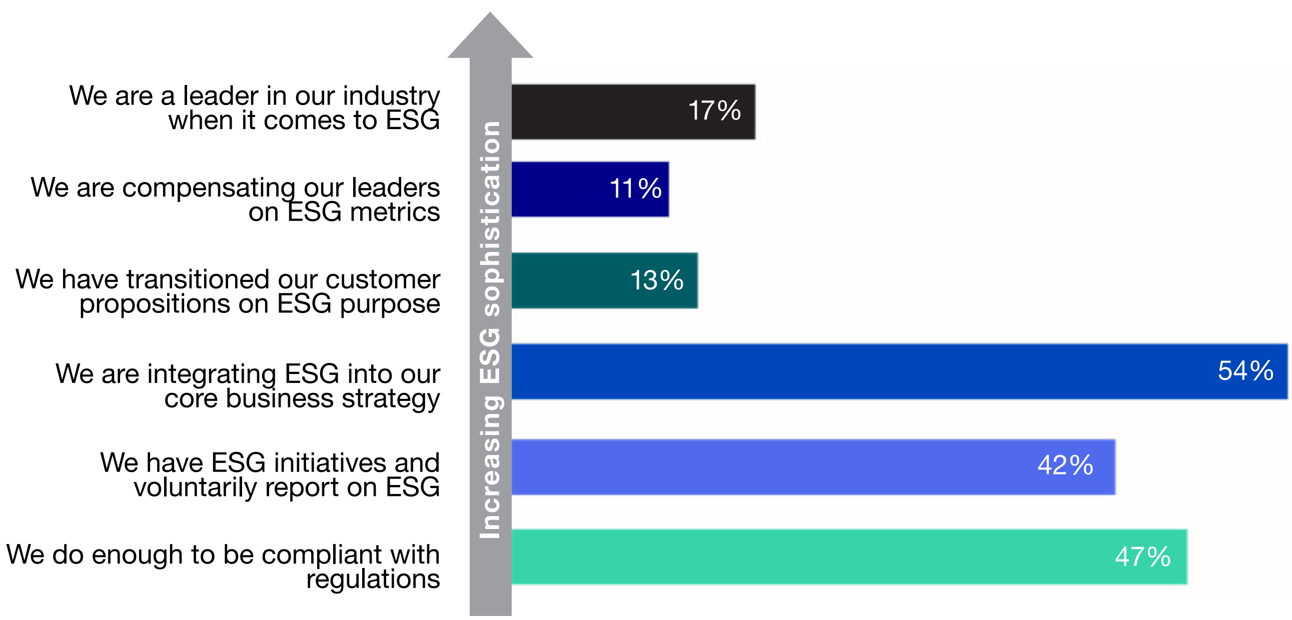
- Engage external partners to assess gaps and validate readiness
- Track and monitor data privacy developments across jurisdictions
- Develop and update cyber response plans
- Test cyber response plans with tabletop exercises
- Deliver updated employee training on cyber and data issues

ESG (ENVIRONMENTAL, SOCIAL, AND GOVERNANCE)

Of the 47% or companies who will focus on ESG, 15% said it would be their most significant focus in the next 12 months. As well as being more of a focus for those optimistic organizations, companies outside the Americas are also more likely to be investing their efforts into ESG.

Organizations were asked about their current approach to ESG: overall, only 28% of respondents reported themselves to be practicing one of the three factors (being an industry leader, compensating leaders on ESG metrics, or transitioning customer value propositions) which indicate higher levels of sophistication in their ESG strategy.

There was also a big disparity across regions: only 22% of organizations based in the Americas reported one of those three factors to be a feature of their ESG approach, compared to 43% of companies outside the region.



Morrison Foerster's GCs and ESG report earlier in the year showed that the "E" in ESG appeared to be less of a priority for in-house teams. This goes some way to explain why, when asked where they will be focusing ESG efforts in the year ahead, a fifth of companies spontaneously mentioned environmental aspects of their ESG strategy.

Carbon reduction (including scope 1, 2, and 3 emissions) and product sustainability were the main issues of concern here.

> "Now more than ever, companies are prioritizing leading ESG transformation within their organizations, specifically tailored to their company and its operations. This presents an enormous opportunity for in-house counsel to reshape their role beyond compliance and disclosure into other vital areas of the business. This includes rethinking governance framework, expanding enterprise risk management, and redesigning the organization's broader culture and talent and retention strategy."
>
> **SUSAN (SUZ) MAC CORMAC,** Chair of Morrison Foerster's Environmental, Social, and Governance (ESG), Social Enterprise + Impact Investing, and Energy practices

PREPARING FOR 2023

What in-house teams should do now:

- Develop enterprise risk management programs with an ESG lens
- Create frameworks that allow for easy measurement of ESG standards
- Prepare for new regulations, such as the SEC's scope 3 emission disclosure
- Incorporate ESG metrics into manager compensation to incentivize ESG progress
- Work with the board to determine how the business can evolve its purpose and customer value proposition to create value for all stakeholders, not just shareholders
- Organizations need to understand that ESG framework is broad and may be divided into three categories:
    1) Laws: compliance with existing and upcoming regulations related to ESG that are expanding from FCPA and privacy to cyber, climate and human rights.
    2) Materiality: sustainability-related issues prevalent or specific to certain industries such as the Sustainability Accounting Standards Board's identified risks across 77 industries and the Global Reporting Initiative's classifications. These material topics may be examined using the single materiality (enterprise value) or double materiality lens (enterprise value + stakeholder impact). This involves benchmarking company operations against industry specific risks from an "outside-in" perspective or "inside-out" perspective.
    3) Seeing around corners: other sustainability-related issues that a company allocates resources to based on corporate culture, stakeholder demand, or prevalence in the society.

CONCLUSION

2023 is set to be a challenging year for in-house professionals. Our research shows that teams will be contending with multiple issues in what is expected to be a riskier and more unpredictable environment. Yet, some organizations remain optimistic and many are already taking an agile and proactive approach to prepare for the year ahead.

> "As we look forward amidst the challenges and opportunities that lie ahead for in-house legal leaders, we hope the insights contained in our Economy & Markets Research Report help our clients identify areas of growth and opportunity for their businesses and make more informed decisions as they prepare their business strategies in the coming year."
>
> **BRADLEY WINE**, Global Co-Chair of Morrison Foerster's Litigation Department and Managing Partner of the Austin office

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