CORPORATE COUNSEL

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GCs and ESG

Survey shows general counsels are extremely involved in developing ESG strategy, with most focused on governance and social policies rather than environmental issues.

By Mary Smith Judd

Introduction

Each year, investors up the ante, placing increased value on their boards' environmental, social, and governance (ESG) policies, oversight, and disclosures. At its core, a company's ESG policies serve as its ethical, moral, and cultural constitution, outlining the standards and processes to which it has committed. Stakeholders and would-be investors use ESG to measure a company's potential and its progress. Vendors may view ESG as a peek into the company's culture, providing insight into its priorities. Employees may view ESG as a road map or a promise of the working environment they can expect.

In Winter 2022, *Corporate Counsel* partnered with international law firm Morrison Foerster to study the extent to which ESG policy and compliance development, implementation, and reporting falls to corporate legal departments. To that end, *Corporate Counsel's* research arm launched a 20-question survey of global-based in-house counsel, canvasing organizational, departmental, and individual approaches to ESG.

The results show that legal departments are extremely involved in developing ESG strategy. Although many of those same departments also lead compliance, roughly one in five of the responding organizations relies on a compliance officer for ESG compliance, including monitoring and tracking progress towards goals, who may or may not report to the legal department.

The data also shows that global legal departments are most firmly focused on ESG's "G" (governance), followed closely by the social/human capital aspects.

For now, ESG's "E" appears to be less of priority, owing at least partly to confusion around measuring and reporting achievements.

Responses were collected by invitation via vetted telephone interviews and online. Those invited to participate were drawn exclusively from *Corporate Counsel's* proprietary database and an independent research firm. The survey opened on January 26 and concluded on March 11, 2022. It was completed by 79 respondents.

Respondents' titles include general counsel, chief legal officers, vice presidents of legal, and the like. The size of the respondents' legal departments ranged from a single lawyer to those exceeding 60 lawyers.

THE SURVEY EXPLORES:

- An overview of the survey respondents. In addition to respondents' title(s) and the number of lawyers in their legal departments, the overview includes their companies' Sustainability Accounting Standards Board sectors;
- Personal and departmental leadership roles of organizational ESG initiatives;
- Company and/or board leadership's practices and priorities, including depth of focus on individual ESG components (environmental, social, governance, and human capital); whether and how companies altered their approach to environmental action in the year; factors motivating the adoption of environmental goals; status of environmental performance goals; and ESG metrics tied to executive compensation incentives and mandates;
- Legal department practices and priorities, including involvement in ESG strategy; involvement in ESG compliance; departmental priorities; consideration of vendors' environmental records and policies; and authority to speak publicly on social issues;
- Governance matters, including: ESG disclosures and the use of third-party assurance or verification services for ESG reporting;

- Personal opinions and observations including respondents' confidence that their organization has a comprehensive ESG program in place; who should lead ESG initiatives; ESG's place in financial reports; challenges to ESG implementation; and stakeholders' understanding of ESG relative to company culture; and

- To supplement the report, pages 11-12 include additional ESG insights and comments on the report's findings from Morrison Foerster partner Suz Mac Cormac, chair of the firm's ESG, Social Enterprise + Impact Investing, and Energy practices.

Additionally, this report includes insights, observations, and comments derived from interviews with the following general counsel who also are ESG legal thought leaders:

- Jill Simeone, chief legal officer and corporate secretary at Etsy, an online marketplace for handmade and vintage goods, based in Brooklyn, NY;

- Ling-Ling Nie, deputy general counsel, chief compliance officer, and chief ESG officer at Aura, an information identity security startup, based in Boston;

- Mark Maurice-Jones, general counsel and compliance officer for Nestlé, based in London.

KEY FINDINGS

- Although just fewer than half of the respondents (47%) report that they personally lead a material portion of their organization's ESG initiatives, the legal departments represented in the study overwhelmingly (90%) lead initiatives.

- In-house leaders report that data and consistency pose their greatest ESG challenges; regulations are not as great a challenge yet.

- Most legal departments are extremely involved in ESG strategy. Many, albeit fewer, are involved in compliance.

- More than half of the respondents report they are not authorized to speak on ESG's "S" (social issues), such as racial justice and human rights. Percentages were consistent, irrespective of senior titles or legal department sizes.

- When asked to rank their legal department's involvement in ESG **strategy**, more than half (54%) reported the highest engagement; three-fourths rated their department's involvement at above average.

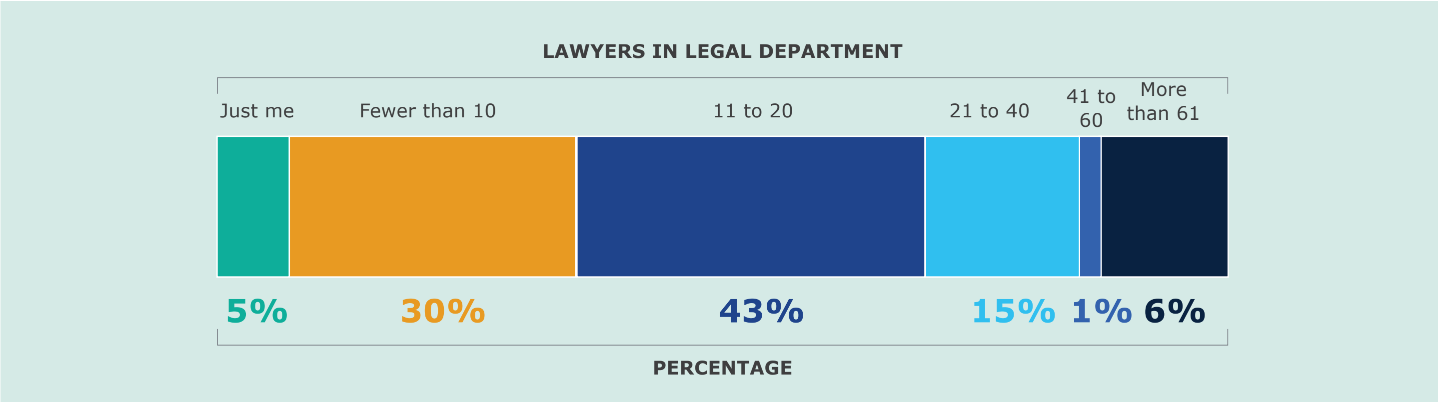
- Yet, when asked to rank their legal department's involvement in **compliance**, two-fifths ranked their legal department's involvement in ESG compliance in the mid- to low-range.

Overview of respondents

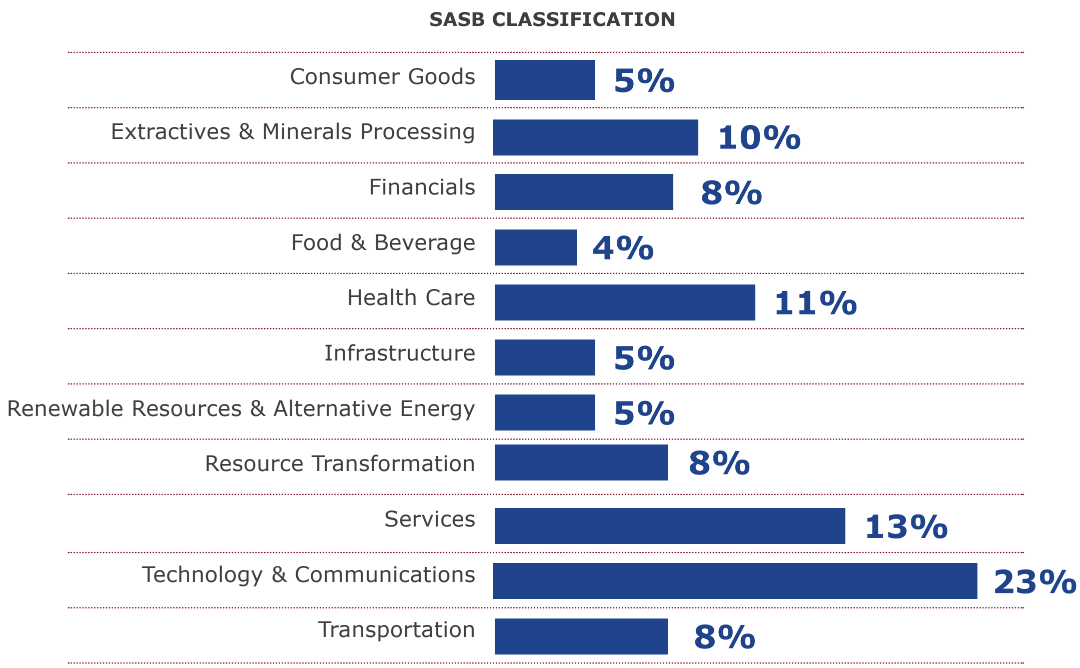
Survey participants were asked their titles. As expected for a pool of in-house counsel, several selected more than one title to reflect their role. As a result, the totals exceed 100%. Respondents' titles illuminate an exceptionally seasoned study group, with 45% reporting the senior-most legal department positions such as global/organizational general counsel (14%); division general counsel (13%); senior vice president or vice president of legal (13%) or chief legal officer (5%). These titles would not be expected to overlap with each other.

Just over half (53%) of the respondents serve their organizations as associate or deputy general counsel. Roughly one in six (15%) likewise serve their companies as corporate secretary and 6% as chief compliance officer. Another 13% report other roles, which included board director, assistant corporate secretary, regional general counsel and manager of cybersecurity, risk, and ESG.

Legal department size represented in the study, relative to the number of lawyers employed, included a higher-than typical representation of in-house counsel from larger departments. Two-thirds (65%) of respondents work in legal departments exceeding 10 lawyers. The greatest number of respondents (43%) hail from legal departments with between 11 and 20 lawyers.



Survey respondents likewise represent a well-balanced and diverse distribution of industries. For this study, respondents were asked to identify which of 11 Sustainability Accounting Standards Board thematic sectors best describes their company. SASB classifications group companies according to shared sustainability risks and opportunities. When unsure or in need of clarity, respondents were directed to find standards here,[1] identifying 77 industries based on their shared sustainability challenges

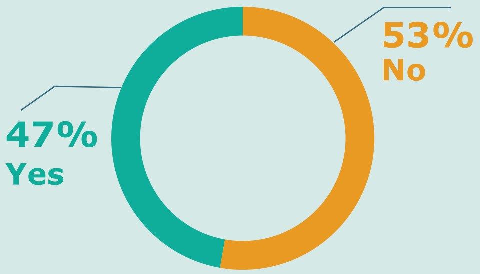


[1] https://www.sasb.org/implementation-primer/understanding-sasb-standards/)

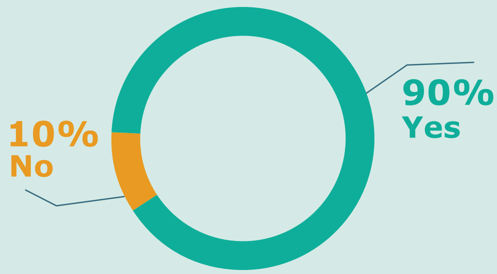
ESG LEADERSHIP

Just fewer than half (47%) of the in-house leaders surveyed report that they personally lead a material portion of ESG initiatives in their organization. Their departments, however, overwhelmingly (90%) lead a material portion of the ESG initiatives.

ESG LEADERSHIP: INDIVIDUAL



ESG LEADERSHIP: LEGAL DEPARTMENT



Legal departments provide structure, helpful frameworks, and thought leadership, especially in the development phase, says Jill Simeone, chief legal officer and corporate secretary at Etsy.

Company and/or board leadership's practices and priorities

The survey examined company and/or board leadership's practices and priorities to ascertain where their priorities, motivators, and to take the pulse of where their energies are focused in early 2022.

THE TROUBLE WITH "E"

Respondents were asked to rate their companies' focus on individual ESG elements — environmental, social, and governance— as well as human capital (including diversity.)

Although all elements registered as priorities, ESG's "E" appears to be the least of these, perhaps owing in part to confusion around measuring and reporting achievements, which will be addressed later.

Element	1=Not at all focused	2	3	4	5=Very focused
Environmental	1%	9%	27%	34%	29%
Social	1%	4%	16%	54%	24%
Governance	0%	3%	14%	46%	38%
Human Capital (includes diversity)	0%	1%	22%	54%	23%

Looking at the results another way, respondents ranked Environmental an average 3.81 on the five-point rating scale, compared to governance at 4.19. Social and human capital averaged closer to equal at 3.96 and 3.99 respectively. One in 10 respondents ranked environmental a low priority, assigning it a 1 or 2.

Element	% Answered High Priority (5 or 4)	% Answered High Priority (4 or 5)	% Answered Low Priority (1 or 2)
Environmental	3.81	63%	10%
Social	3.96	78%	5%
Governance	4.19	84%	3%
Human Capital (includes diversity)	3.99	77%	1%

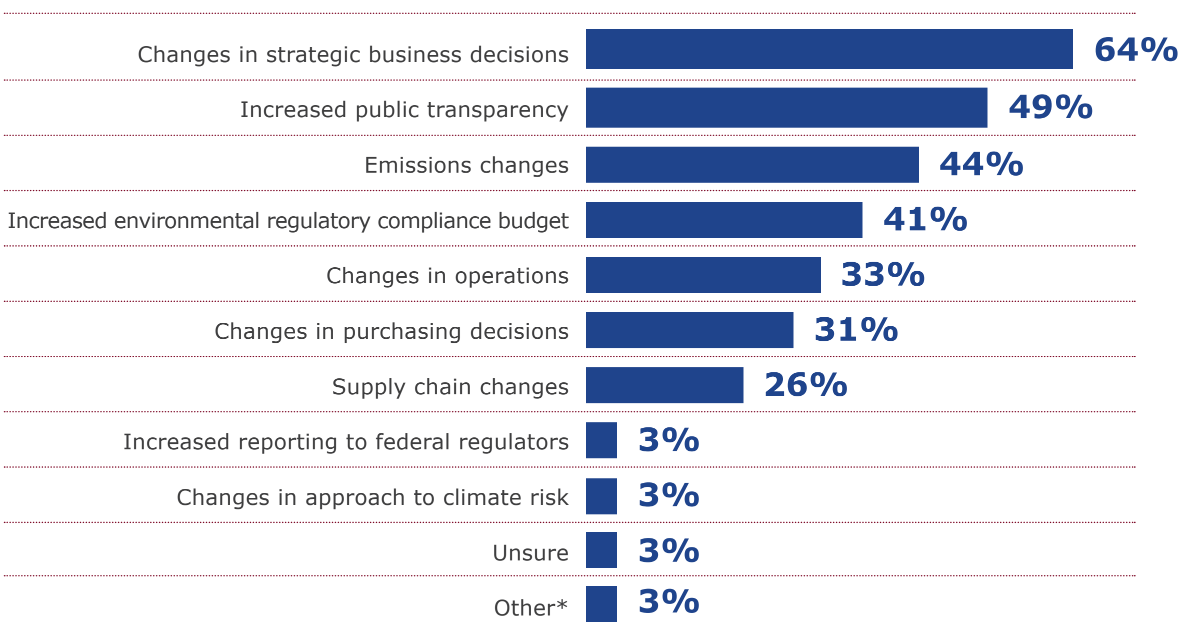
ENVIRONMENTAL ACTIONS

Despite its rank among priorities, nearly half (49%) of those surveyed reported their company altered its approach to environmental action in the last 12 months.

ALTERED APPROACH TO ENVIRONMENTAL ACTION IN 2021

Among those who answered "yes," changes in strategic business decisions, increased transparency, and emissions changes topped the list of ways they altered environmental action in the past year. Nearly half (49%) reported their organization had increased public transparency in the past year alone. Only 3% reported a recent change in their approach to climate risk.

Ways in which companies altered their approach to environmental action in 2021



*Other answers include launching (an updated) sustainability strategy as a strategic pillar and increased green initiatives.

The following options yielded zero responses:

- Decreased public transparency;
- Decreased reporting to federal regulators; or
- No meaningful changes/my company has not altered anything.

MOTIVATORS BEHIND THE CHANGES

The majority of respondents pointed to image, competition, and investor concerns as factors that motivated their organization to adopt environmental goals beyond required compliance with environmental laws.

MOTIVATING FACTORS

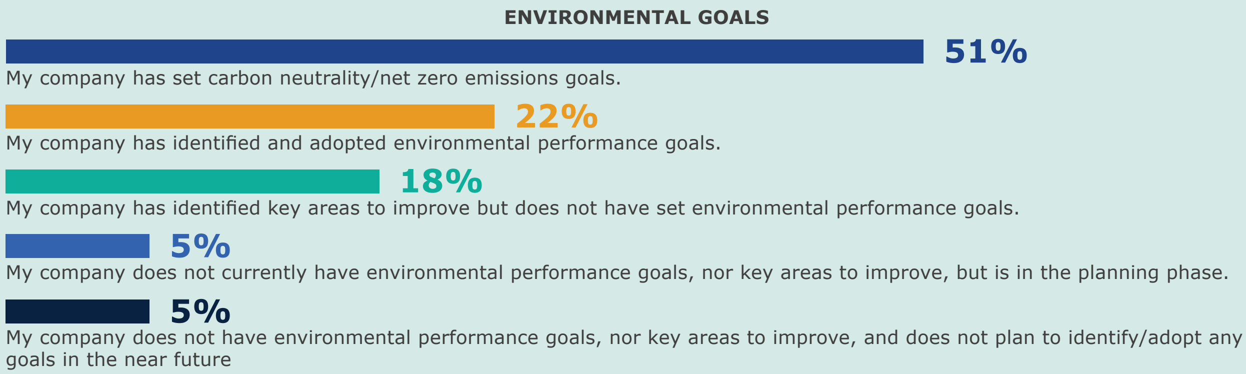
*Other answers included: increasing pressure from clients; ESG is core to the company's original mission; ESG ratings; "because it is the right thing to do;" and "we are not engaged at all."

ENVIRONMENTAL PERFORMANCE GOALS

Asked which of five statements — beyond required compliance with environmental laws — best describes the status of their organization's environmental performance goals, more than half (51%) of all respondents stated their company has set carbon neutrality/net zero emissions goals. Another 22% said their company had identified and adopted performance goals.

Respondents were not asked to provide details, nor were they asked to provide their aspirational timelines for meeting the goal. A follow-up survey might query who in the organization set the goal, how and when they expect to achieve it, and the legal department's role in setting goals.

In the absence of regulatory guidelines, it remains unclear whether companies fully understand the requirements of getting to carbon neutrality. "It's not just the output of your product. It's all the work that goes into making it," says Ling-Ling Nie, deputy general counsel, chief compliance officer, and chief ESG officer at Aura, an information identity security startup.



ESG TIED TO COMPENSATION

Just over half (54%) of respondents indicated their company's executive compensation includes incentives or mandates for ESG metrics. Conversely, 39% reported their company's executive compensation is not tied to ESG with the remaining 6% answering "not sure." This question is expected to be repeated annually, offering year-over-year comparisons and insights.

"As shareholders increasingly look for sustainable value creation, it makes sense to link compensation to achieving specific, measurable ESG targets," says London-based Mark Maurice-Jones, general counsel and compliance officer for Nestlé. "It is important, however, to ensure that the targets are authentic and meaningful to avoid greenwashing. Having meaningless targets is almost worse than having no targets at all."

Legal department practices and priorities

Legal departments overwhelmingly are the authors of ESG strategy. The majority of legal departments represented in the survey report they are extremely involved in ESG strategy.

When asked to rank their legal department's involvement in ESG **strategy** on a scale of 1 to 5, where 5 is "extremely involved" and 1 is "not involved at all," more than half (54%) reported the highest engagement. Just more than three-fourths (76%) ranked their organization at the highest levels (4 or 5.)

Legal Department's Involvement in ESG Strategy	Percentage
5 = extremely involved	54%
4	22%
3	14%
2	9%
1 = not involved at all	1%
No answer	1%

Yet, when asked to rank their legal department's involvement in **compliance** on a scale of 1 to 5, where 5 is "extremely involved" and 1 is "not involved at all," two-fifths ranked their department in the mid- to low-range.

Legal Department's Involvement in ESG Compliance	Percentage
5 = extremely involved	18%
4	42%
3	33%
2	5%
1 = not involved at all	1%
No answer*	1%

* This respondent answered 5=extremely involved in previous question related to strategy.

Aura's Nie views ESG as "compliance 2.0." She says, "Once you kind of build out your compliance program, what you really have left is the monitoring and the tracking, and that can often be handled by your audit function or your finance function."

The results, Nie adds, "may be reflecting that really evolved companies that are focused on ESG pretty much have their compliance program locked down." For these companies, she suggests, "maybe it's moved to a stage where (compliance is) just the monitoring and tracking. Other units can take the reins from there."

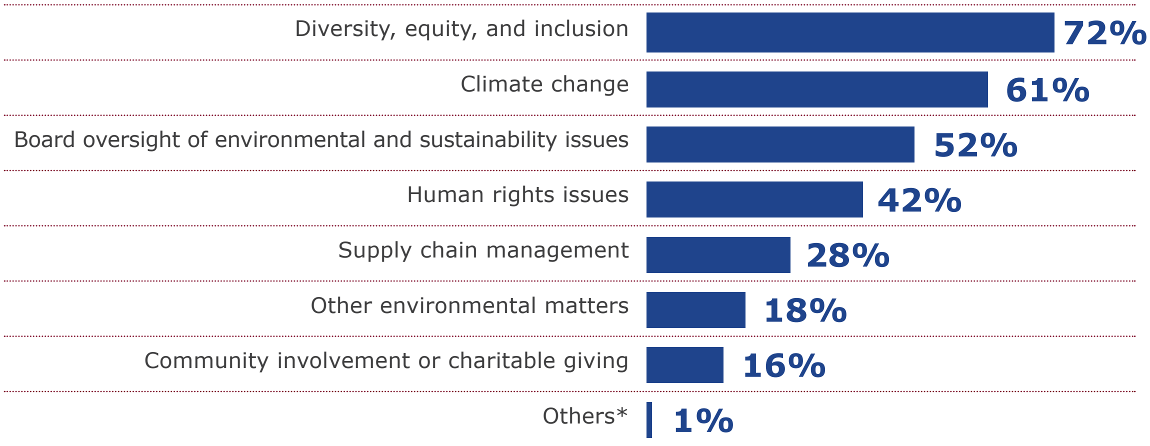
"Effective ESG requires goal setting and measuring," says Simeone. "Etsy makes this process transparent and public, by filing an Integrated Report, which means we publish our ESG targets and our progress on them, alongside our financial results, in our Form 10-K filed with the SEC."

Although compliance falls under Simeone's department, she says Etsy has turned to internal and external auditors and other groups with specific technical expertise to add greater transparency to the measure of their progress on key ESG metrics.

TOP PRIORITIES

Asked to identify their legal department's top three ESG-related priorities, three-fourths (72%) pointed to Diversity, Equity, and Inclusion (DEI). Climate change (61%) and board oversight of environmental issues (52%) also topped the list of priorities.

TOP 3 ESG PRIORITIES



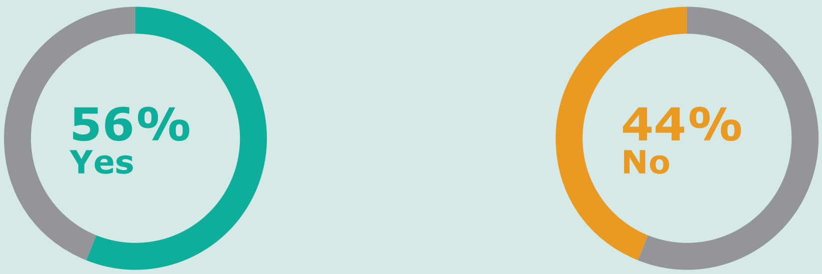
* Compliance with applicable laws and regulations

"Diversity initiatives have a very complicated regulatory and legal history," says Simeone. "Building a diversity program that's both effective and legal will not happen without lawyers. If you really wish to move the needle, it makes a lot of sense to involve lawyers on the team that is designing your DEI program."

VENDORS' POLICES

More than half (56%) reported they consider the environmental policies and records of their vendors in decision-making.

CONSIDER VENDOR'S RECORDS



"Third-party oversight is an area of increased focus for traditional compliance," Simeone says. "Asking vendors ESG questions is piggybacking on that process, and now also has become standard." Rigor around the process remains the unknown variable.

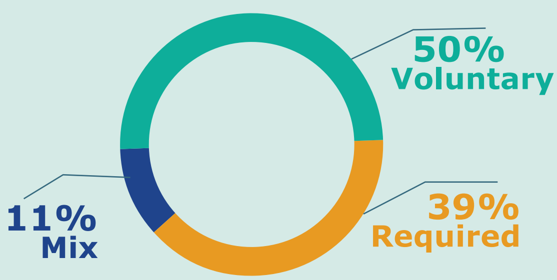
Governance Matters

ESG DISCLOSURES

The vast majority (86%) also reported their company provides ESG disclosures. Half of the respondents said their company voluntarily reports ESG disclosures. Two-fifths said their reports are required by government regulation. The remainder said their reporting is a hybrid of both.

PROVIDE DISCLOSURES

VOLUNTARY VS. REQUIRED



Legal Teams Lead on ESG but Have Room to Grow

By Suz Mac Cormac

We will start with the good news. There are certainly many encouraging results from Morrison Foerster's sponsored survey by *Corporate Counsel*, headlined by the general awareness of the importance of Environmental, Social, and Governance (ESG) issues by in-house counsel and by the 90% of those surveyed who confirmed that either their GCs or in-house teams are leading their company's ESG strategy. But the results also leave open the question of whether in-house lawyers still view ESG and their role in its adoption and promotion too narrowly.

First, among the encouraging results was the focus on reporting and compliance. For example, more than half of the respondents said their legal departments lead ESG compliance. Leadership in this area will become more critical as the demands increase for more meaningful action and transparency—not just from regulators, but also from employees, partners, customers, and investors.

Take diversity, equity, and inclusion (DEI) as just one example. A commitment to DEI has meant, at minimum, collecting and reporting data on workforce diversity. But many companies, in response to their employees and other stakeholders, have taken that commitment to a new level. They have hired human resources experts to design programs to measure how effectively companies attract and retain diverse talent. These market leaders will force others to follow them regardless of what regulatory action is required.

Greater Focus Needed on the "E" in ESG

Legal departments will also need to increase their time spent on the "E" in ESG. In our survey, more respondents listed social and governance issues as high priorities than environmental issues. That's not surprising, given that our respondents were not significantly represented by the three industries responsible for nearly approximately 95% of greenhouse-gas emissions: energy, agriculture, and transportation.

But the "E" will become increasingly urgent for all companies. In March, shortly after respondents completed our survey, the U.S. Securities and Exchange Commission proposed new regulations that would require registered companies to make extensive disclosures about climate-related risks. Those disclosures will include not just a company's carbon dioxide emissions and the energy it uses in the form of electricity, heat, and cooling—known as Scope 1 and Scope 2 emissions—for the fast majority of public companies, but also Scope 3 emissions coming from a company's upstream and downstream operations and customers, a monumental reporting task. Almost all public and private companies will be within the Scope 3 emissions of public companies required to report, and will, therefore, need to be able to measure, verify, and benchmark emissions and effectively assess climate risk.

Executive Compensation, ESG Disclosures, and Third-Party Verification

On another positive note from our survey, most respondents said their executive compensation includes incentives/mandates for ESG achievements. Left unanswered by our survey, however, is whether that compensation is purely subjective or whether it is tied to the same kind of qualitative metrics used to capture financial performance. Over the long run, I expect compensation to be dictated by the latter.

It was no surprise that about half of the respondents said their companies make voluntary ESG disclosures, while 38% said they include ESG factors in required disclosures and 11% include ESG in both voluntary and required disclosures. Curiously, however, 14% said their company makes no ESG disclosures. Frankly, we believe that those respondents do not understand what is included under the ESG umbrella. The fact is, every company is legally required to monitor and disclose risks around anti-money laundering, anti-bribery, privacy, cybersecurity, and governance (to name a few)—and all those issues fit squarely within ESG.

In other good news, more than two-thirds of respondents noted that their company employs a third party to provide assurance or verification on their ESG reporting. That number was surprisingly high, but I am unclear as to whether those third parties were independent or paid consultants. Today, there only a handful of well-regarded independent third-party verification providers. But I believe that, like accounting firms that audit a company's financial reporting, independent verifiers will play an essential role in undergirding the credibility of ESG reporting.

Looking Ahead: ESG in the Future

Ultimately, while there is much to cheer in these results, many legal departments will need to take further steps along their ESG journeys. In my view, there are (at least) four lenses through which to view ESG: driving value, enterprise risk management, compliance, and reporting.

These survey results suggest that many legal departments focus too narrowly on the latter two. A few years ago, that limited view may have been acceptable, provided that compliance was strong in areas where there was already regulation. However, the job of in-house legal leaders today requires more focus on using ESG to drive value and manage risk for the entire enterprise.

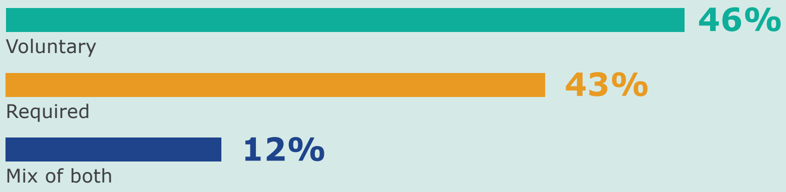
We are living through an era of rapid change. Over the last decade, we've seen the risks and regulations dramatically increase around cybersecurity, privacy, climate change, and human rights. A company's legal team is perfectly positioned to help not just to comply with existing laws and regulations, but to see around corners to identify company-wide risks and opportunities to drive value.

What does that look like? Say your company is opening a new office or new plant. Are you analyzing the physical threats posed by climate change to that building? And what about threats indirectly caused by climate change, like civil unrest? Will those risks threaten your company's ability to service contracts?

That level of analysis is more than just checking boxes. It requires a new way of thinking about ESG. But, ultimately, it's the thinking that companies and boards of directors need most.

***Click here** to view featured ESG content including podcasts, videos, and articles by several Morrison Foerster partners focused on demystifying the challenges legal leaders face.*

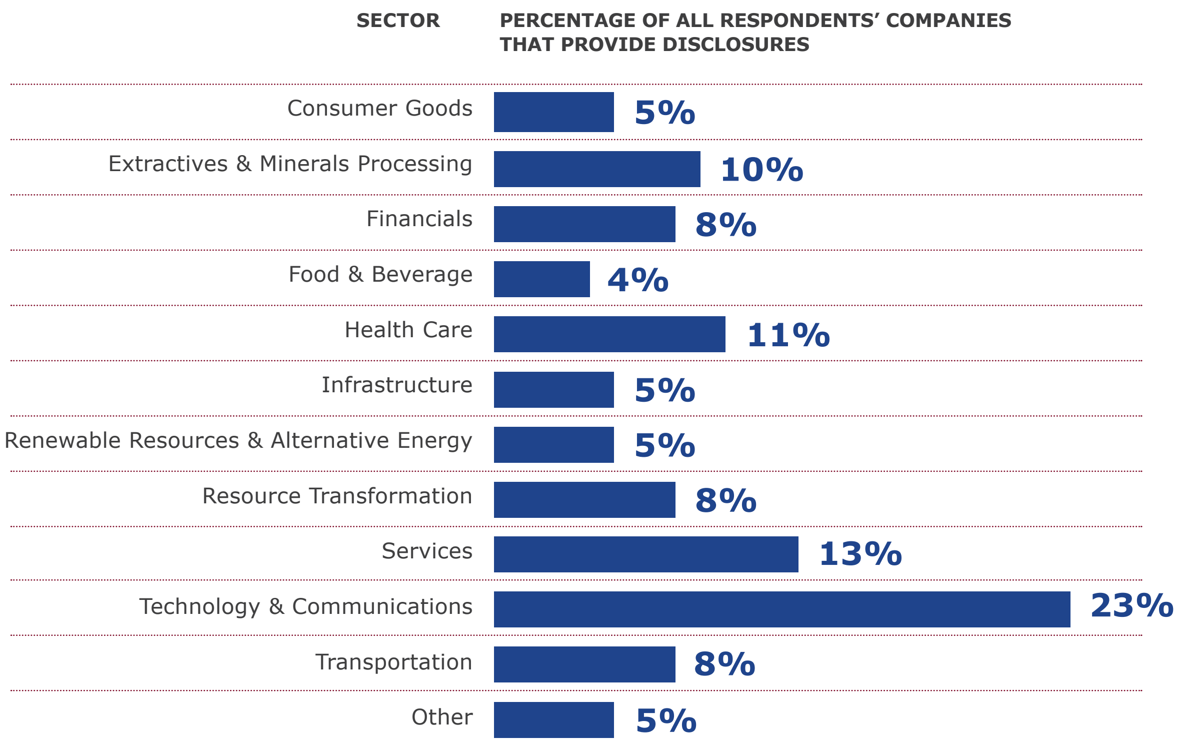
Reporting practices among those answering “Yes” to providing disclosures (n=68)



Reporting practices among those answering “No” to providing disclosures (n=11)

Researchers drilled further into the disclosure question, looking for differences by industry.

The most noteworthy anomaly is the 50% “no” answers in the second chart below for the consumer goods/retail sector. However, caution is advised as this sector only represents 5% (or just four individuals) of the total respondents. Data pools by industry proved too small to draw meaningful observations. The results are presented here as a baseline for future surveys.



Researchers looked for differentials among those in the same industries.

"Which of the following Sustainability Accounting Standards Board classification standards best describes your company?"	Total responses (N=79)	Yesses (68 total)	Nos (11 total)	Percentage of total respondents in this industry answering "Yes"	Percentage of total respondents in this industry answering "No"
Consumer Goods/Retail	4	2	2	50%	50%
Extractives & Minerals Processing (including coal operations, construction materials, iron and steel production, metals and mining, and all phases and services related to oil and gas)	8	7	1	88%	13%
Financials	6	6	N/A	100%	N/A
Food & Beverage	3	3	N/A	100%	N/A
Health Care	9	8	1	89%	11%
Infrastructure	4	4	N/A	100%	N/A
Renewable Resources & Alternative Energy	1	1	N/A	100%	N/A
Resource Transformation	5	5	N/A	100%	N/A
Services (including advertising and marketing, casinos and gaming, education, hotels and lodging, media and entertainment, professional and commercial services)	10	8	2	80%	20%
Technology & Communications	18	15	3	83%	17%
Transportation	6	5	1	83%	17%
Other	5	4	1	80%	20%

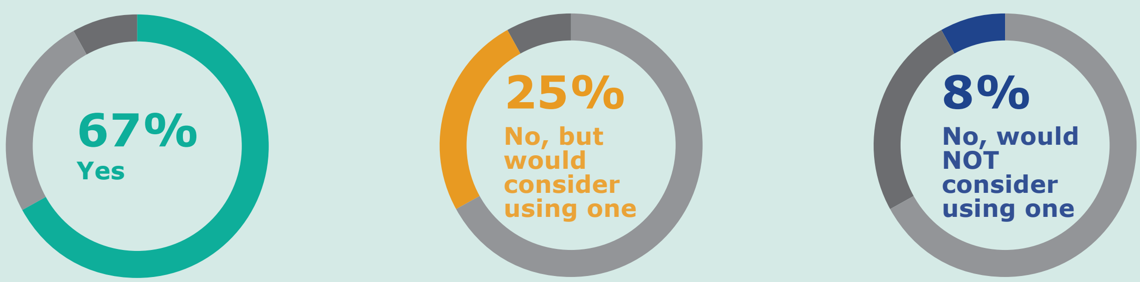
Among those who report that their organizations provide disclosures, researchers examined industrial differentials by type.

Among those answering "Yes" to providing disclosures: "Which of the following Sustainability Accounting Standards Board classification standards best describes your company?"	Voluntary	Required	Mix of both
Consumer Goods/Retail	50%	0%	50%
Extractives & Minerals Processing (including coal operations, construction materials, iron and steel production, metals and mining, and all phases and services related to oil and gas)	29%	57%	14%
Financials	50%	50%	0%
Food & Beverage	67%	33%	0%
Health Care	50%	50%	0%
Infrastructure	75%	25%	0%
Renewable Resources & Alternative Energy	0%	100%	0%
Resource Transformation	20%	60%	20%
Services (including advertising and marketing, casinos and gaming, education, hotels and lodging, media and entertainment, professional and commercial services)	63%	38%	0%
Technology & Communications	33%	53%	13%
Transportation	20%	60%	20%
Other	50%	0	50%

OUTSIDE HELP

Two-thirds of respondents report using third-party assurance services or other third-party verification for ESG reporting. One-fourth said they do not use such services but would consider doing so. The remaining 8% report they do not use services, nor would they consider doing so.

CURRENTLY USE A THIRED-PARTY ASSURANCE SERVICE FOR VERIFICATION



MUM'S THE WORD

More than half (54%) of the in-house leaders report they are not authorized to speak on social issues, such as racial justice and human rights. The percentages remained consistent, regardless of senior titles or size of legal department.

GCS AUTHORIZED TO ADDRESS SOCIAL ISSUES

Personal opinions and observations

Two-thirds of the in-house counsel who answered this question said they are confident that their organization has a comprehensive ESG program in place. Surprisingly, one in seven elected not to answer the question. Asked to rate their confidence on a scale of 1 to 5, where 5 is extremely confident and 1 is not confident at all, the majority of the 69 (62%) who responded to the question offered the highest level (4 or 5.)

"How confident are you that your organization has a comprehensive ESG program in place?"	Percentage
5 = extremely confident	15%
4	47%
3	13%
2	9%
1 = not confident at all	4%
No answer	13%

It may be unusual that 13% did not answer the question, especially when it appears those respondents went on to complete the survey. The omissions can be seen across the board, irrespective of senior rank or department size. It is possible that the omissions indicate a lack of confidence that the respondents were uncomfortable acknowledging.

Researchers then looked at the data by legal department size. The data reveals that respondents who are least confident often likewise report that they lead smaller legal departments. Nine in 10 (90%) of those who are not confident in their programs lead departments with 10 or fewer lawyers.

Legal department size of those answering 1 or 2	Percentage
Just me	20%
2-10	70%
61+	10%
N=10	

For comparison, below is a breakout by department size of respondents who answered 5 = Very Confident.

Legal department size of those answering 5=very confident	Percentage
Just me	20%
2-10	25%
11-20	58%
21-40	8%
N=12	

Finally, the data for those answering 4 or 5 supports the previous finding. Those who are most confident that their company has a comprehensive ESG program may lead mid-size to larger legal departments.

Legal department size	% of All Respondents answering 4 or 5	% of respective legal department category
Just me	4%	50%
2-10	22%	46%
11-20	51%	76%
21-40	16%	67%
41-60	2	100%
61+	4	40%
N=49		

OTHER REFLECTIONS: GCS SHOULD LEAD; ESG BELONGS IN FINANCIAL REPORTS

Perhaps unsurprisingly for a survey pool of senior in-house counsel, four-fifths of those surveyed said they feel the general counsel is the right person to lead ESG initiatives within their organization.

IS GC THE RIGHT ESG LEADER?

The majority (73%) of respondents also believe that ESG-related information should appear in financial reports.

SHOULD ESG APPEAR IN FINANCIAL REPORTS

C-SUITE, EMPLOYEES AND INVESTORS "GET" ESG

The majority (70%) of respondents feel their organization's internal stakeholders understand how to effectively own ESG as part of the company culture.

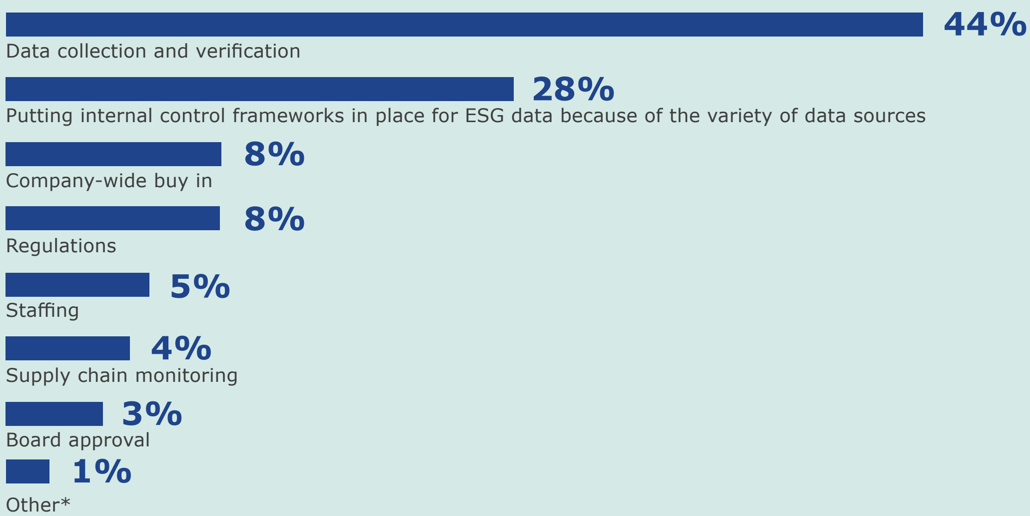
Beyond checkmarks in boxes, investors want assurances that companies understand and value ESG and that employees believe it is real, Simeone says. In the past few years, she has invited Etsy's investors to open dialogues. Each year, she says, participation increases. "They want to talk ESG, executive compensation. They want to understand that management understands ESG not as a 'nice to have' or a box to check but as a value that employees believe is real and that they trust you on."

CHALLENGES TO IMPLEMENTING ESG

Legal department leaders report that data and consistency pose the greatest single challenge around implementing ESG in their organizations. In response to investor demand for climate and other ESG information, the U.S. Securities Exchange Commission is responding with an all-agency approach.

At this time, regulations are expected, but are not yet a contributing factor. As this report was completed, the SEC unveiled proposed rules that could lead to uniform metrics. Because uncertainty around the proposed Enhancement and Standardization of Climate-Related Disclosures for Investors looms, they are not yet an influencing factor.

GREATEST SINGLE CHALLENGE



*Lack of interest in spending time and resources on these subjects

LOOKING AHEAD

It is Morrison Foerster’s intention to repeat elements of this survey in the years to come. Several of the questions in the survey were written to serve as benchmarks in an annual look at how corporate counsel are leading and responding to ESG.

Respondents were not asked if their companies are public or private. Future studies will request this data. Breakdowns by industry and legal department size revealed only the most modest insights. When the survey is repeated, we intend to track differences between publicly and privately held companies.

The connection between executive compensation and ESG metrics is another fruitful landscape worth exploring in the years to come. The editors at *Corporate Counsel* would like to know more about the companies that make changes in their environmental approach during a given year.

Conclusion

Investor demand for meaningful movement in all three ESG arenas will not subside. The data shows that in-house legal departments overwhelmingly lead the development of ESG goals, ensuring their accurate measure and bridging the divide on multiple fronts between investor expectations, C-Suite executives, and their organization’s workers.

Standardized metrics will help all parties evaluate progress and, Aura’s Nie says, will help “make sure the executives do invest money and time into the whole ESG process.”

“Investors are frustrated in an inability do an apples-to-apples comparison,” she says. Without those parameters, disclosures may include “cherry-picked marketing data put out by companies to tell their story. …You’ve got companies reporting all different kinds of metrics without any sort of a regard to what other companies are reporting.”

In-house lawyers may prefer a framework to measure standards. “It actually makes it a little bit easier for general counsel to get that buy-in from the executives when they can show them in a very concrete way what the actual standards are that we have to measure ourselves against,” Nie says.

The tide is moving, Simeone agrees, with investors wanting assurance that leadership teams and boards understand ESG is paramount to effectively running a business. “They want to understand you’re managing these issues as you would any other important element of the business.”

Simeone adds, “ESG is a pillar of your business value.”

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