



General Counsel in the Boardroom

Senior Corporate Counsel Reveal Their Responsibilities,
Priorities and More

CORPORATEUNSEL



Background & Objectives

CORPORATECOUNSEL

GCs in the Boardroom:

In Fall 2021 Corporate Counsel magazine partnered with Diligent Corporation to study the relationships between corporate legal departments and their boards of directors. ALM's research arm launched an in-depth survey of an exclusive market segment: senior in-house counsel, based in the United States.

Responses were collected via vetted telephone interviews and online, by invitation. Those invited to participate in were drawn exclusively from Corporate Counsel magazine's proprietary database, an independent research firm and sponsor sources.

The survey was open from October 22, 2021 to November 19, 2021 and completed by 93 respondents.

CORPORATECOUNSEL



Executive Summary

CORPORATECOUNSEL

GCs: If you want to be seen, have a seat (on the Board); lead initiatives

The relationships between boards of directors and their most senior corporate counsel straddles a precariously fine edge. The expectations that boards place on senior legal counsel are myriad, many only tangentially related to the practice of law. In addition to identifying and mitigating legal risk for the whole organization, boards look to corporate counsel as strategists and revenue generators. They seek their leadership on matters ranging from security to corporate culture to investor expectations.

In late 2021 Diligent Corporation partnered with Corporate Counsel to ascertain and measure those pressures and to better understand the relationships senior corporate counsel currently have with their boards of directors. To that end, the latter launched an in-depth, 25-question survey of United States-based general counsel, chief legal officers, vice presidents of legal and the like.

The survey found that roughly one-third of the most senior corporate counsel also sit on, hold leadership positions or report directly to those same boards.

Irrespective of board position or reporting line, a whopping 98 percent of respondents report responsibilities to their boards. Many feel pressure – especially from board directors – to offset costs by creating revenue streams. Those with board positions likewise are tethered to fiduciary and other investor obligations.

The pressures keep coming. More recent additions may include leadership of Diversity, Equity and Inclusion (DEI) initiatives; Environmental, Social and Corporate Governance (ESG) (three-fifths reported leading ESG initiatives); recruitment of diversity board candidates (72 percent); and onboarding new board members (88 percent).

The legal departments led by survey respondents varied somewhat evenly, from solo and small to those employing more than 40 lawyers. Wherever appropriate, the study also examines perspective differences and similarities between those with board seats and those without.

Among the key survey findings:

- 37 percent of the senior corporate counsel surveyed hold seats on the board;
- Nearly 4 in 5 frequently attend and/or report to their boards during regular meetings;
- 96 percent are given less than 20 minutes of agenda time to present to their boards, with almost 1 in 10 routinely given only 5 minutes;
- More than 4 in 5 (82 percent) are involved in revenue-generating ideas, but for those with board seats, that number jumps to 97 percent; and
- 79 percent rated their boards as committed or highly committed to corporate purposefulness.

The survey explores:

- Respondents' interface with their boards, including: reporting and supervisory lines; board seat-holders; frequency and time allotment for presentation/reporting; meetings with executive committee; and member collaboration
- Individual/departmental responsibilities including: top three areas of oversight; revenue generation; early business strategy involvement; legal issues dealt with in past two years; and involvement/examples of strategic initiatives
- Social/cultural responsibilities and pressures including: DEI pressure; diversity recruitment to board; ESG leadership; board and personal views of the legal department as the organization's moral compass; and onboarding new board members
- Board priorities including its: desire to lead and develop purposefulness; single most important risk; and ranking its priorities, preparedness, legal team preparedness and global challenges.

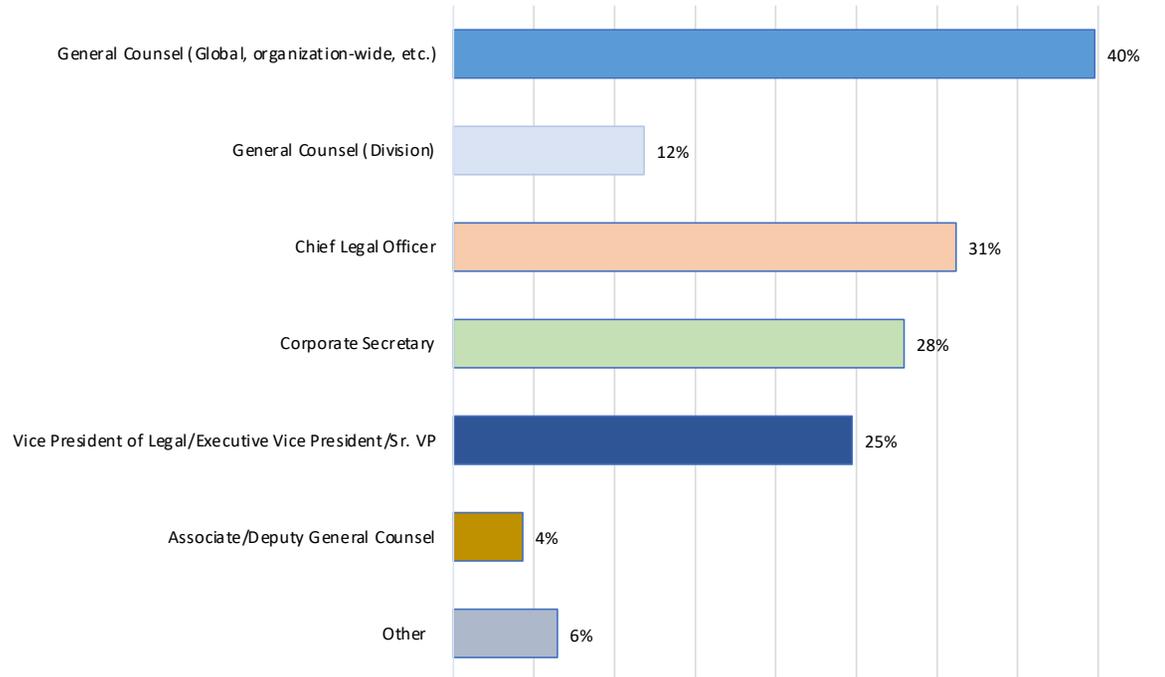


Survey Results

CORPORATECOUNSEL

Respondents' Leadership Roles Reflected in their Titles

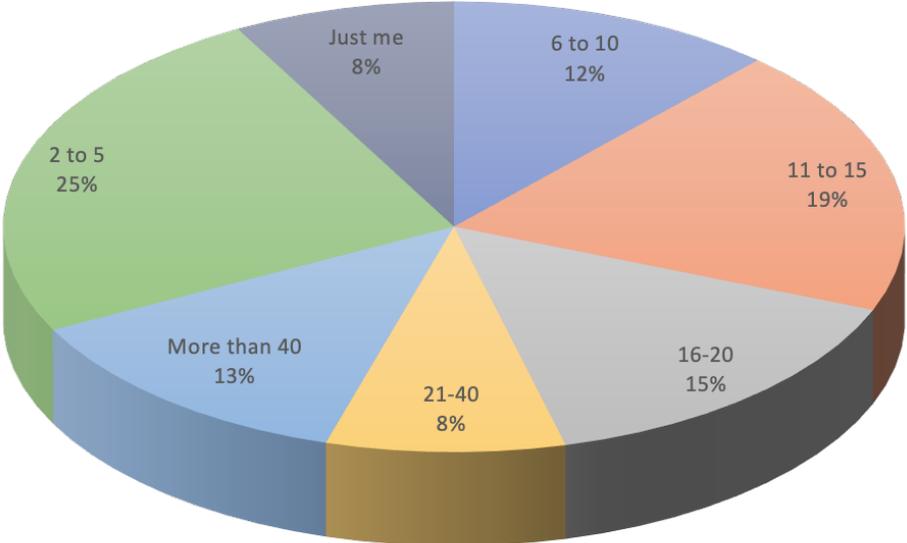
Title (choose all that apply)



Other includes: global privacy counsel, director, corporate counsel, chief of staff, managing director, chief compliance officer

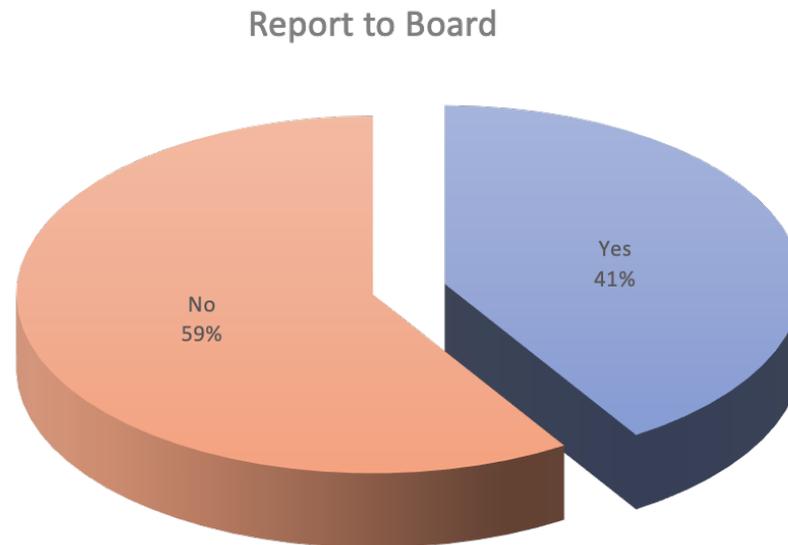
Legal Departments Represented in Study Span Broad Size Range

Lawyers in Legal Department



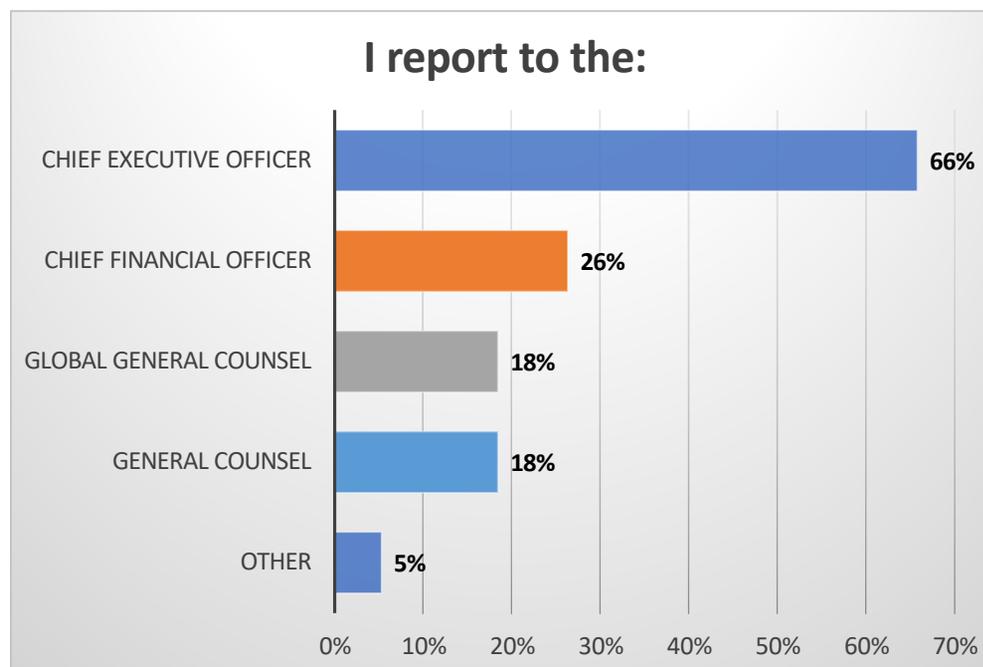
2 in 5 Respondents Report Directly to board Leadership

Do you have a reporting line to your board of directors?



Supervisory Lines Among Those Who Report to the board

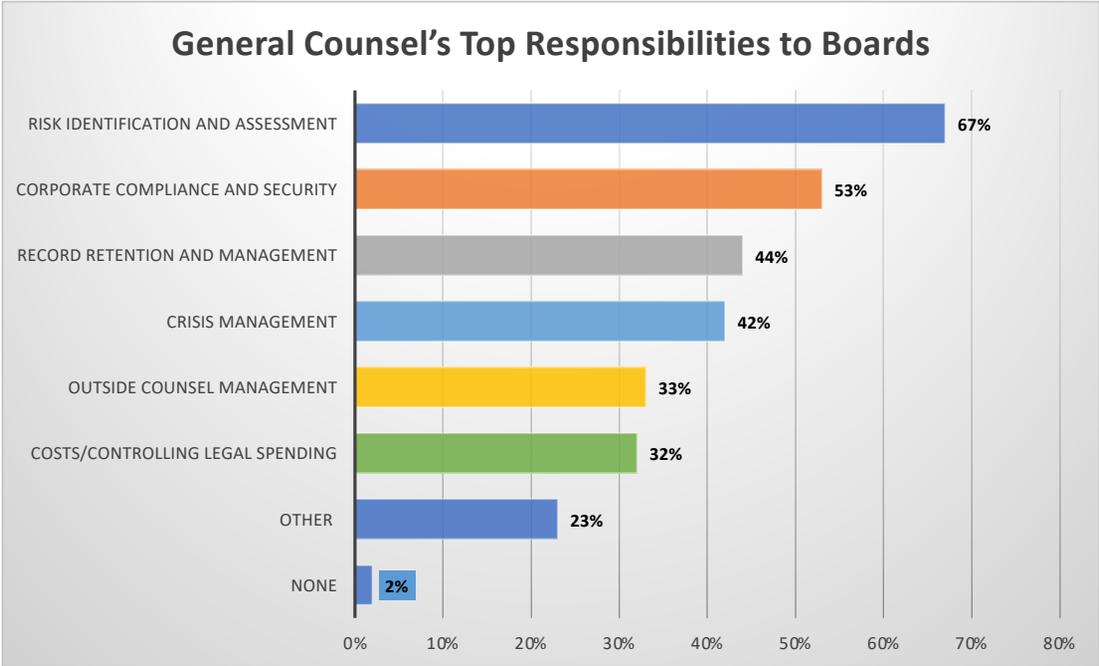
What is your reporting line? (Select all that apply)



Other includes Chair of the Board; Chief Compliance Officer

Identifying/Assessing Risk and Compliance top GC Responsibilities

What are your top responsibilities to your board? (Select up to three)

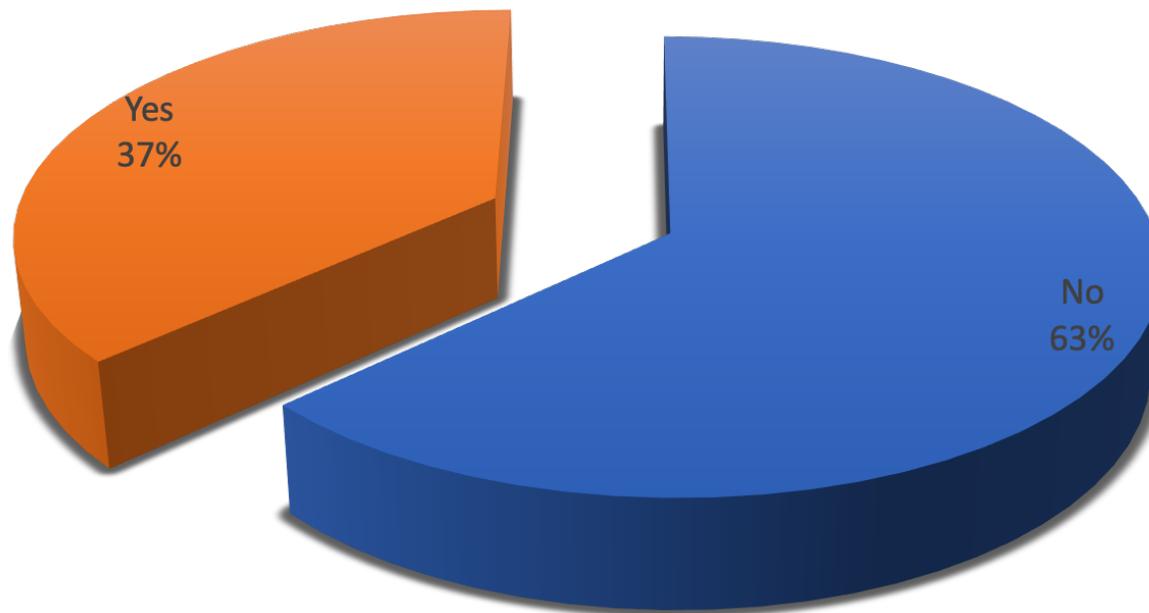


And nearly one-fourth of GCs surveyed identified “Other” among their top 3 responsibilities:

- Corporate governance (5)
- Strategic goals/direction (2)
- Commercial deals / M & A (2)
- Day-to-day legal matters (2)
- General/task management (2)
- Contracts & Negotiations
- Independent Advice
- Litigation/crisis management
- Performance assessment
- Product development
- Recruitment of board members
- Training Program

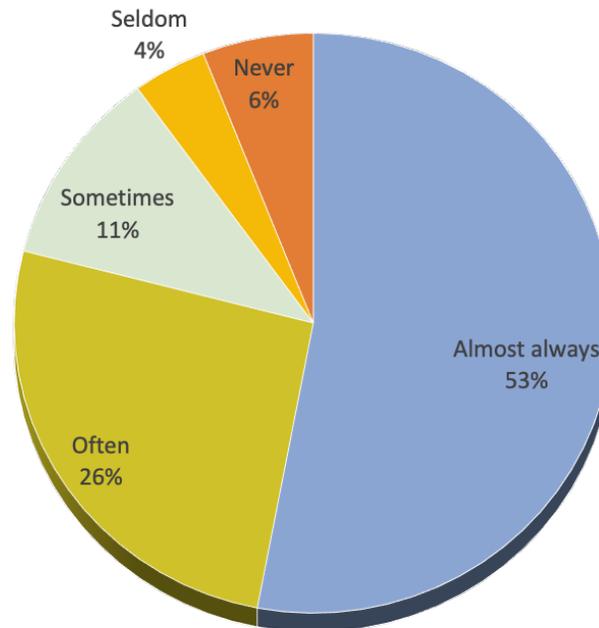
More than 1 in 3 GCs Surveyed Hold Board Positions

Do you have a seat on the board?



Nearly four in five respondents almost always/often attend or present at board meetings...

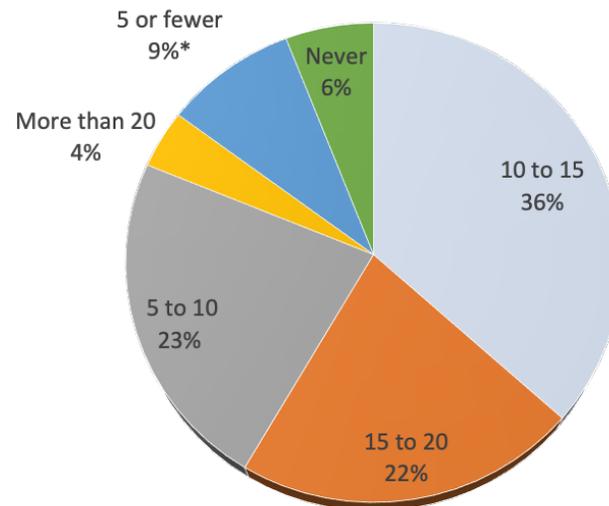
When your organization holds a Board meeting, how often do you attend/present?



Senior counsel frequently address their boards of directors

... but few are given adequate time to thoroughly address legal matters and other concerns they lead

*How much time are you typically given to present to the Board?
(minutes)*

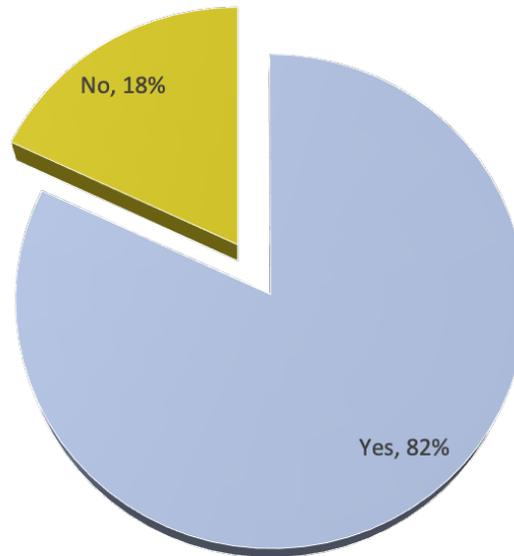


Only 1 in 25 is given at least 20 minutes to report to their boards

*All but one in the 5 or fewer minutes group also report to their boards "almost always" or "often"

Four in five GCs surveyed are included in revenue-generation

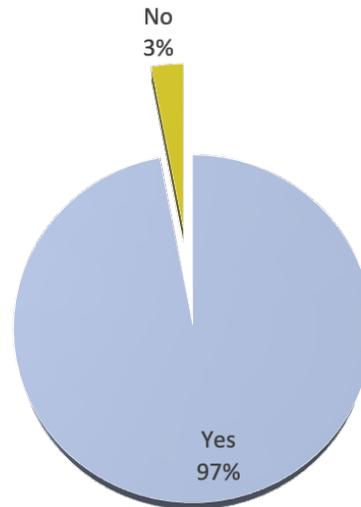
Are you involved in revenue-generating business ideas?



A Deeper Dive ... Among GCs **with** a seat on the board ...

Nearly ALL are involved in revenue generating ideas...

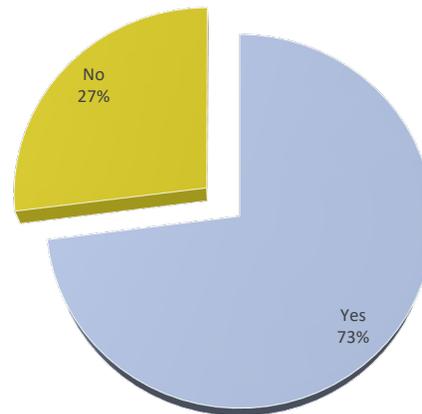
Are you involved in revenue-generating ideas?
Seat on the Board



A Deeper Dive ... While Among GCs **without** a seat on the board ...

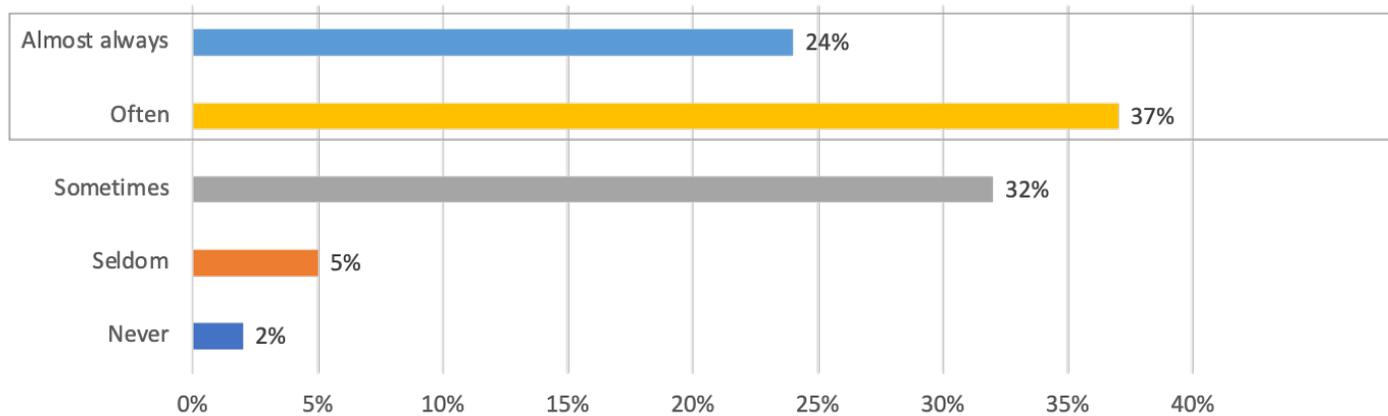
Three-fourths likewise have revenue-generating responsibilities

Are you involved in revenue-generating business ideas?
No seat on the board



Two-thirds of respondents frequently are brought in early to make business strategy decisions.

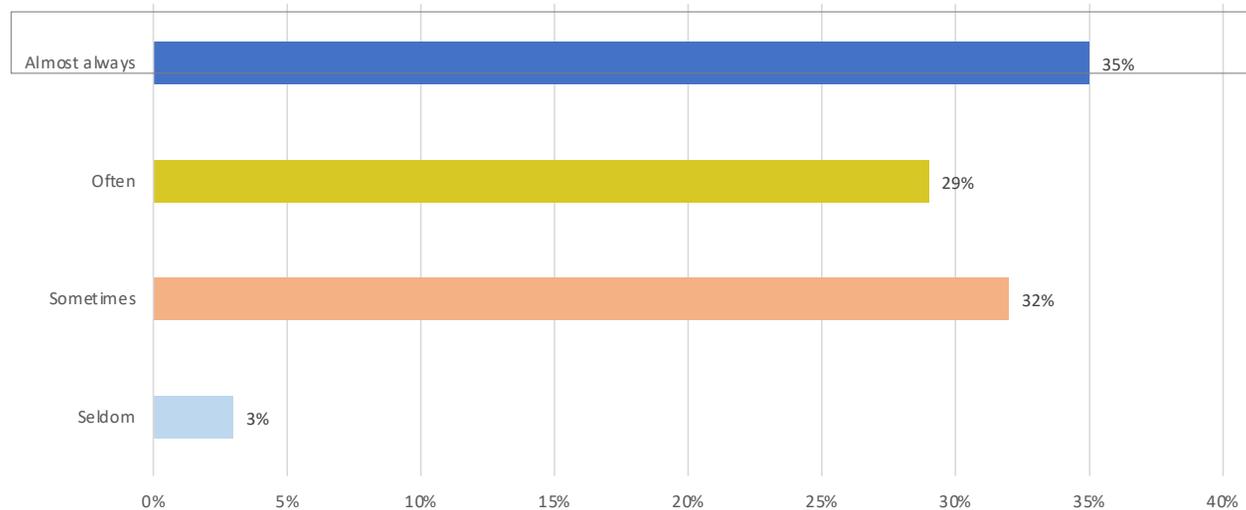
How often does the executive leadership team seek your early input on business strategy decisions?



A Deeper Dive ... Among GCs **with** a Seat on the Board ...

More than 1/3 frequently are “almost always” brought in early by the executive team to consult on business strategy decisions

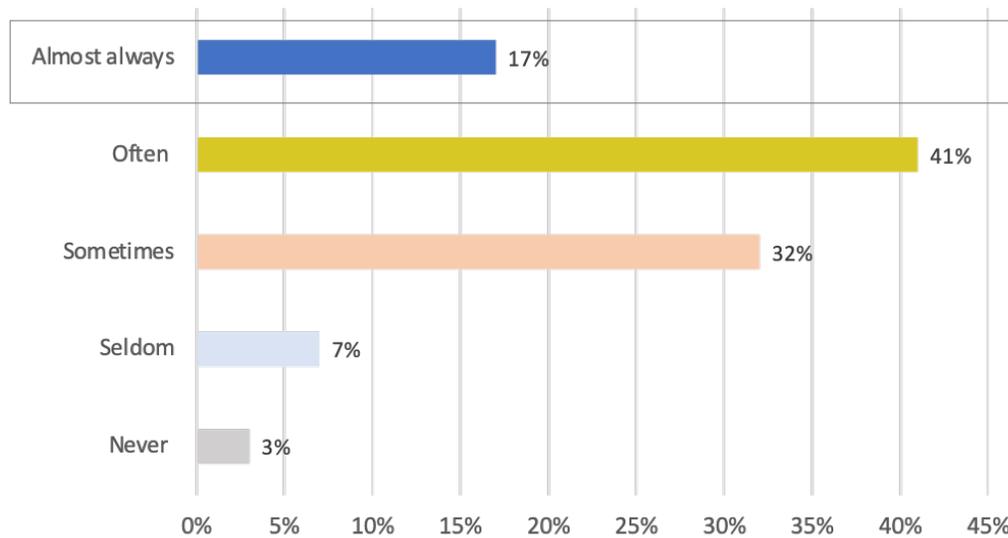
How often does the executive leadership team seek your early input on business strategy decisions?



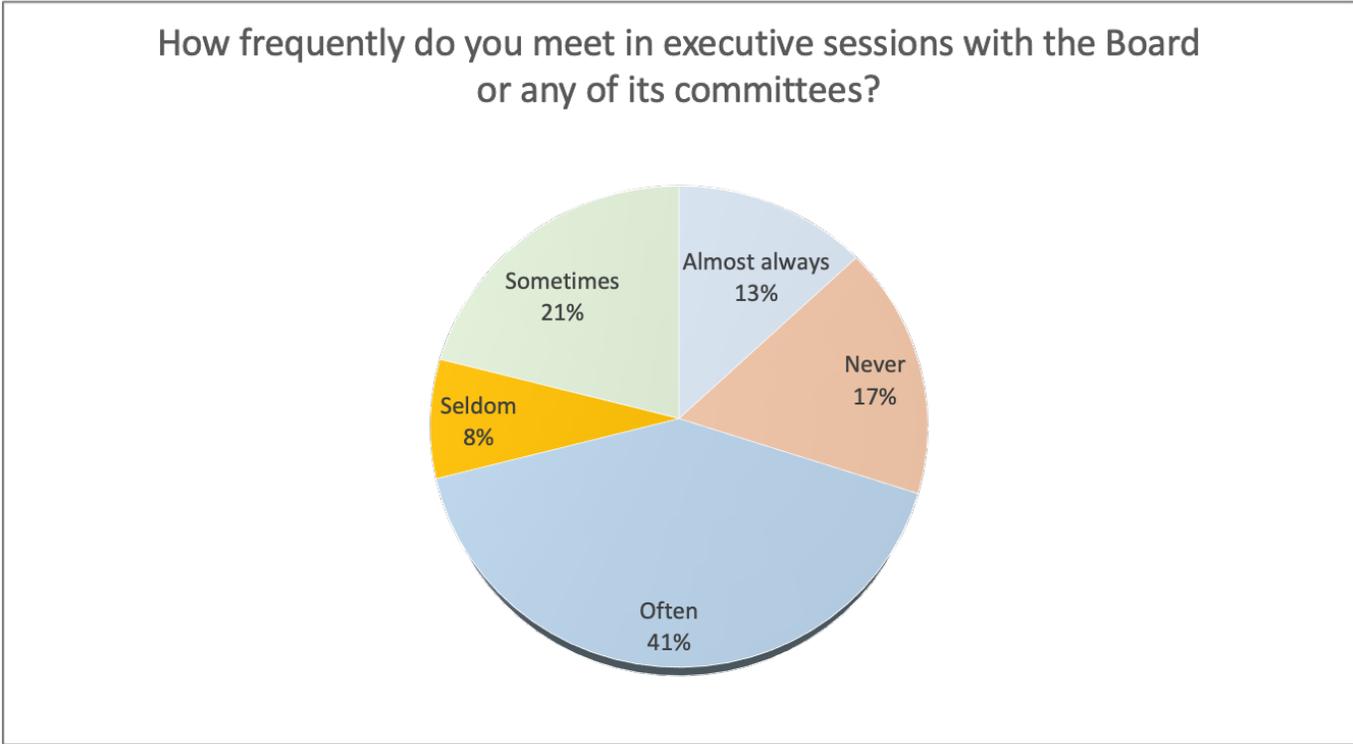
A Deeper Dive ... Among Those **without** a Seat on the Board

Just 1 in 6 is report “almost always” being brought in early by the executive team to consult on business strategy decisions

How often does the executive leadership team seek your early input on business strategy decisions?

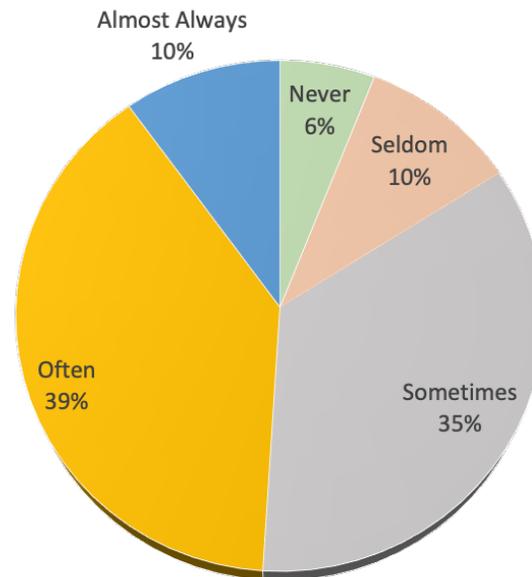


One-fourth of the GCs surveyed meet infrequently (seldom or never) with their board or its committees



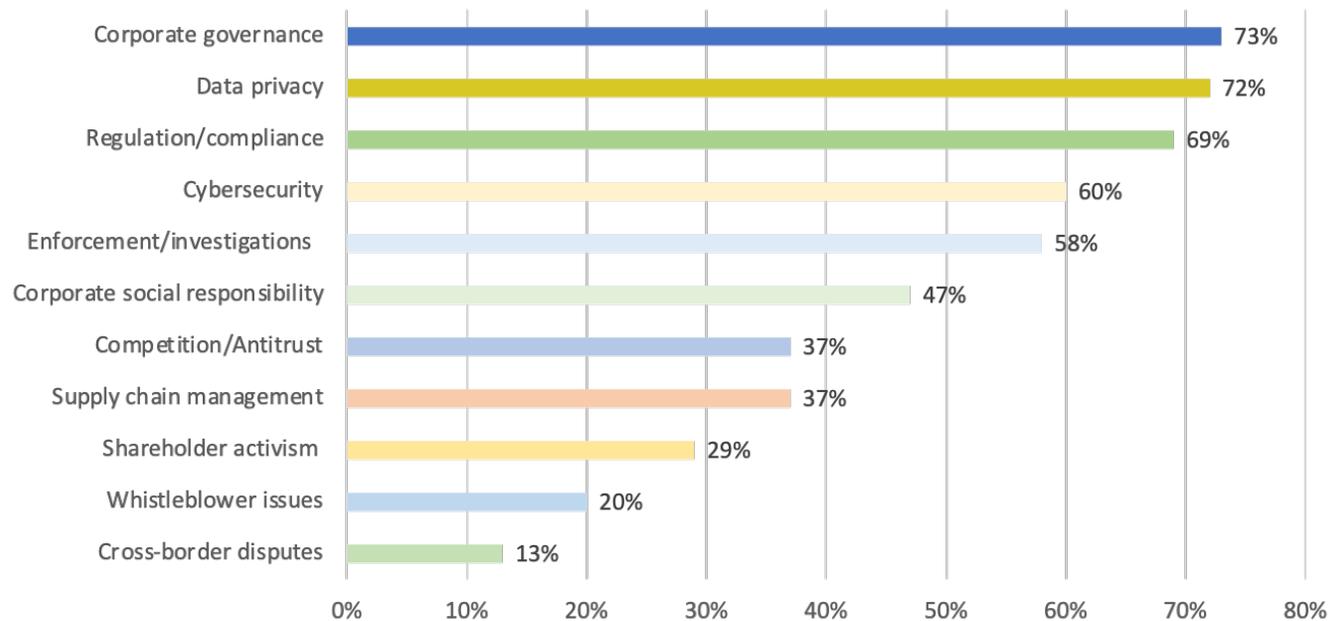
Fewer than half collaborate externally with board and committee members on a regular basis (never, seldom or sometimes)

Outside of executive sessions with the Board or Board committees, how frequently do you collaborate externally with Board members?



Since 2019, 3 out of 4 corporate legal departments have dealt with governance and data privacy matters

Which of the following types of matters has your legal department encountered/addressed in the past 2 years? (Select all that apply)



“Other” legal matters GC respondents faced during the past two years:

Intellectual property/
licensing (5)

Casualty/fire

Environmental, Social, and
Governance

Government affairs

Health and safety

M&A

Labor/employment issues (2)

Restructuring issues

Boards are not pressuring corporate counsel for DEI leadership



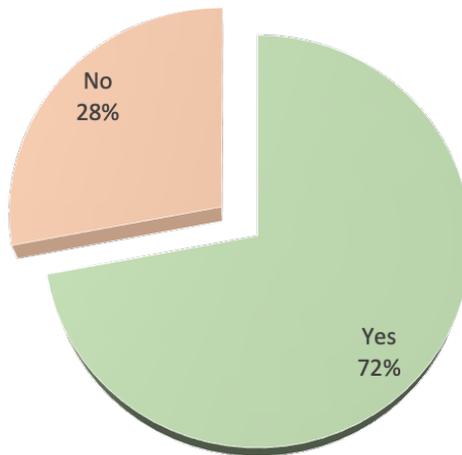
Average 2.6

On a scale of 1-5, 5 being very pressured and 1 being not pressured at all/not discussed, how much pressure do you feel from your board to lead the organization's Diversity, Equity and Inclusion (DEI) initiatives?

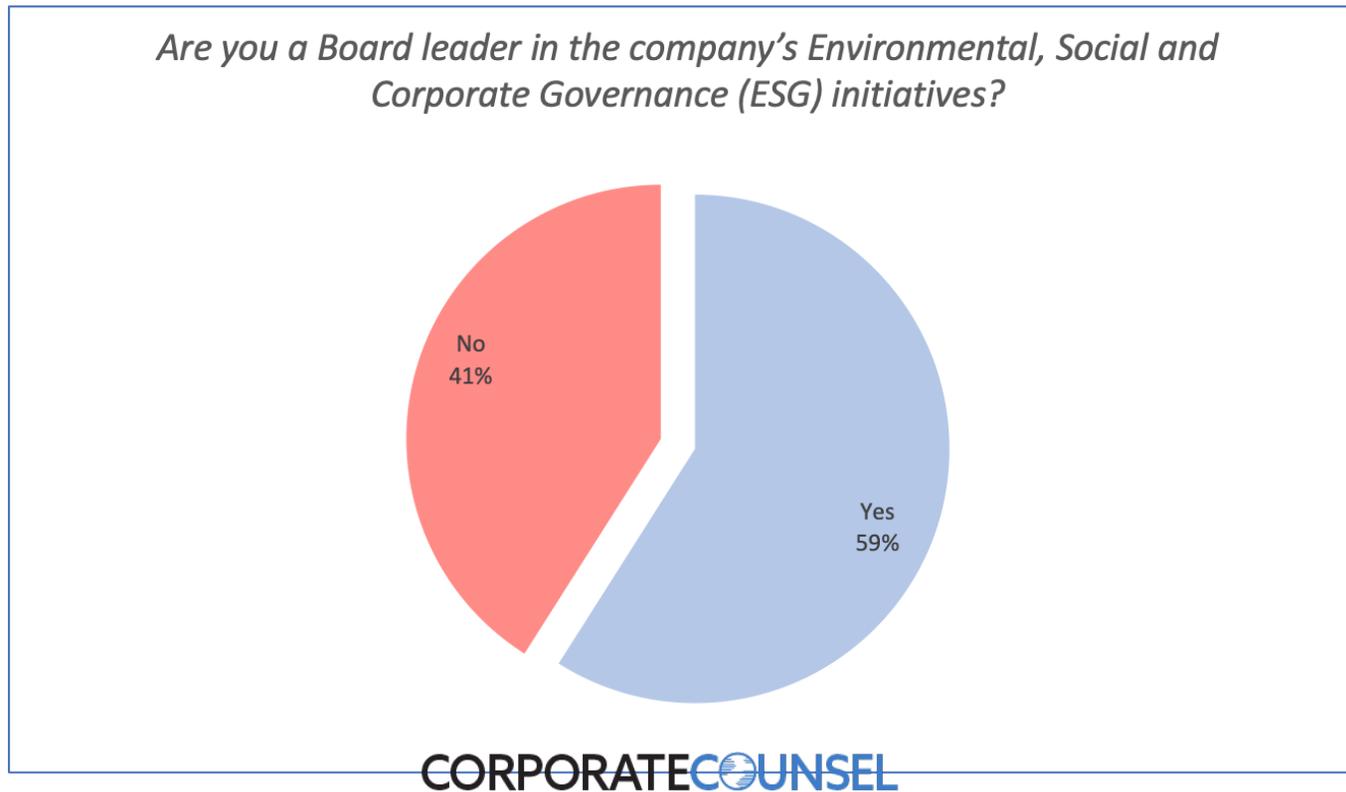
Rating	Responses
5	6
4	13
3	33
2	17
1	24

Almost 3 in 4 are involved in recruiting diverse board candidates

Are you or the legal department actively involved in helping the organization recruit additional diverse candidates to your Board?



3 in 5 GCs lead their boards' ESG initiatives



Most boards are committed to corporate purposefulness

Average 3.24

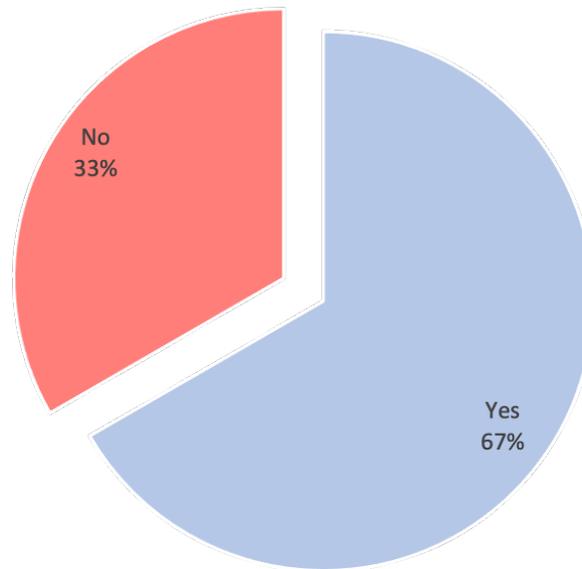


On a scale of 1-5, 5 being very committed and 1 being not committed at all, how committed is your board in leading and developing purposefulness (an aspirational reason for being that is grounded in humanity and inspires a call to action, i.e., ESG both externally and internally) into your company's corporate culture?

Rating	Responses
5	10
4	30
3	34
2	10
1	9

2 in 3 say their boards look to legal as the company's moral compass

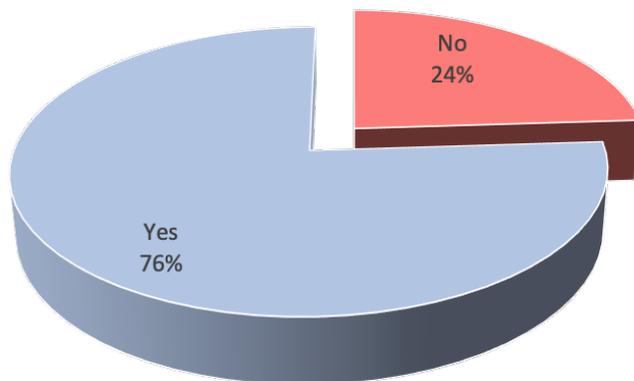
Do you feel the Board looks to the legal department as the "moral compass of the company?"



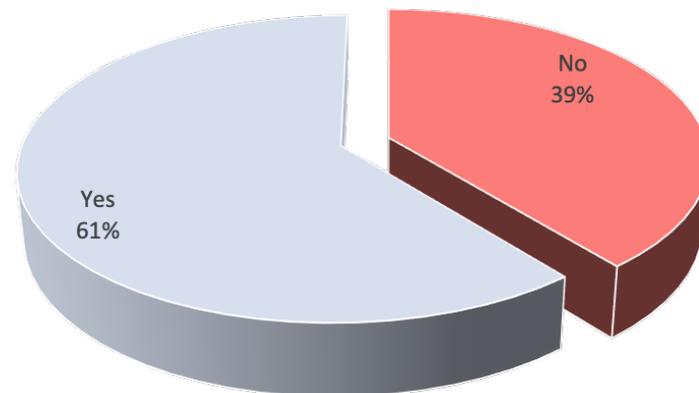
Corporate counsel with board positions may be more sensitive to the moral compass question

Do you feel your board looks to the legal department as the moral compass of the company?

WITH a board seat

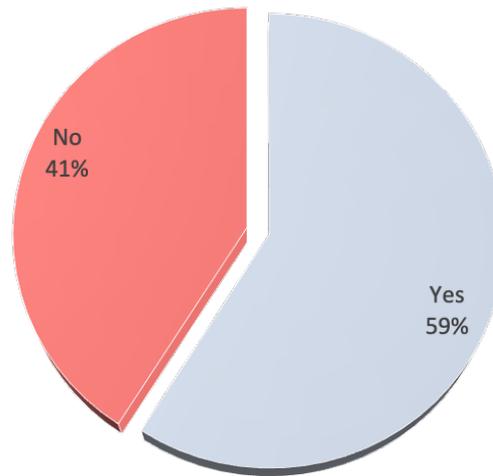


WITHOUT a board seat



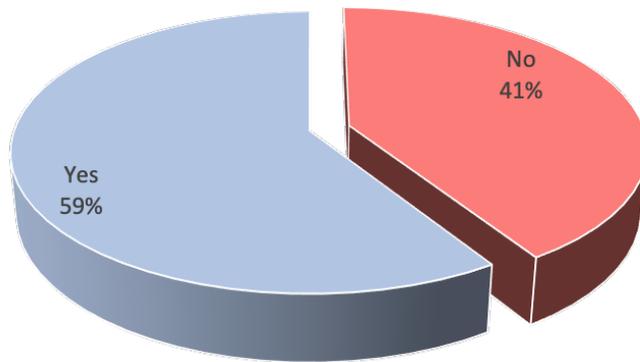
2 in 5 corporate counsel do not see legal as the inherent arbiters of corporate morality...

*Do **you personally** believe that serving as the moral compass of the company should be the responsibility of the legal department?*

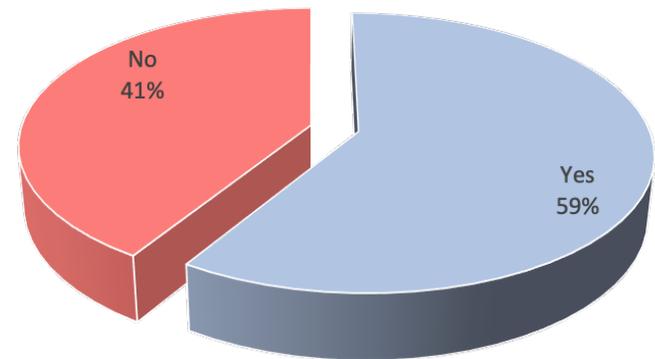


...A consistent opinion, regardless of board status

WITH a board seat

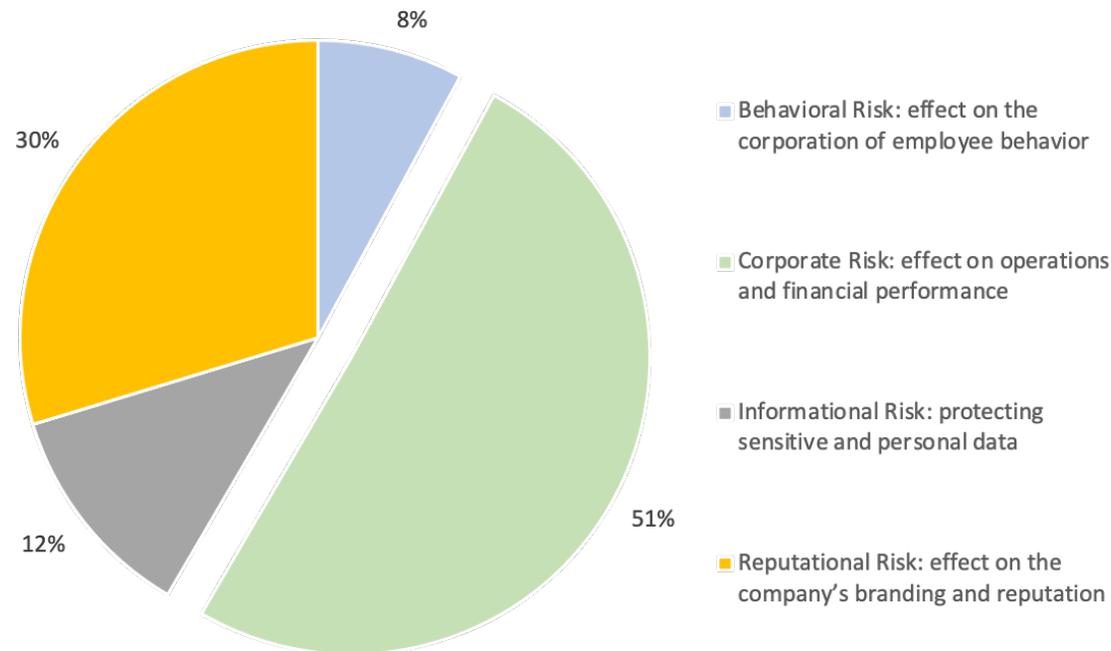


WITHOUT a board seat



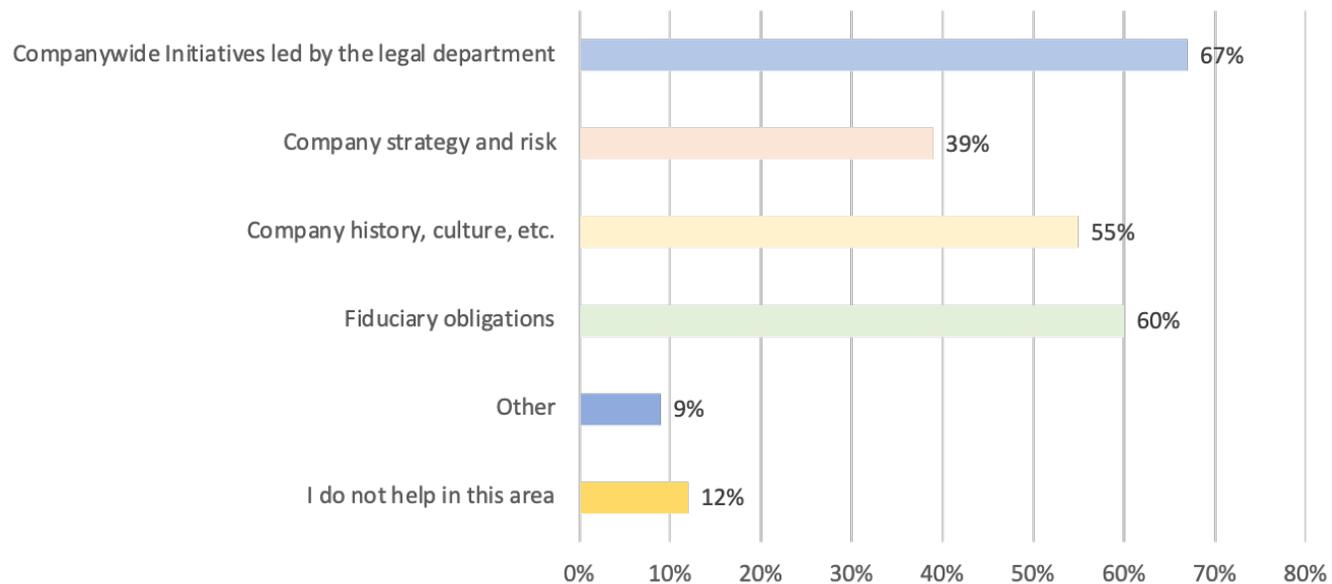
Boards to GCs: Corporate risk trumps all others

Which of the following risks is most important to your Board?



Most GCs/legal departments tasked with onboarding responsibilities

When onboarding new members, which of the following Board responsibilities are you/the legal department tasked with imparting/communicating? (Select all that apply)



Boards' top priorities: governance/risk/compliance; meeting investor expectation; executive compensation

Topic	Average (Stars)	% who answered 5=Top Priority	% who answered 1= Not a priority at all
Executive compensation	3.5	24%	3%
Environmental, Social, Corporate Governance (ESG)	3.5	16%	4%
Meeting evolving investor expectation	3.5	27%	12%
Board composition	3.5	22%	8%
Board succession planning	3.4	18%	11%
Security of board communication	3.2	14%	10%
Governance, risk and compliance	3.9	27%	1%

Please rate each of the following topics' current priority to your board on a rating scale where 5=top priority and 1=not a priority

Similarly, corporate counsel say their boards are best prepared to oversee governance/risk/compliance; executive compensation; less prepared to meet investor expectation and ESG

Topic	Average (Stars)	% who answered 5=Fully prepared	% who answered 1= Not prepared at all
Executive compensation	3.6	22%	4%
Environmental, Social, Corporate Governance (ESG)	3.4	15%	6%
Meeting evolving investor expectation	3.4	16%	6%
Board composition	3.5	18%	4%
Board succession planning	3.5	20%	6%
Security of board communication	3.4	12%	4%
Governance, risk and compliance	3.9	24%	0%

Please rate each of the following topics on a rating scale where 5=fully prepared and 1=not prepared at all, relative to your board's preparedness to provide effective oversight? (i.e., information, best processes and reporting protocols).

1 in 4 say legal team’s top priority is “ensuring proper and thorough coalescence related to critical risks and compliance issues for internal board visibility”

Topic	Average (Stars)	% answered 5 = top priority	% answered 1 = not a priority
Improving efficiency in our board document management and communications	3.7	23%	2%
Security of our board communications during online board collaborations and meetings	3.4	20%	1%
Preparedness/response for unanticipated activist investors	3.1	12%	12%
Eliminating inadvertent financial risk related to improper reporting on key disclosures	3.7	26%	3%
Ensuring proper and thorough coalescence related to critical risks and compliance issues for internal board visibility	3.8	27%	1%

Please rate each of the following’s importance to you and your legal team on a rating scale where 5=top priority and 1=not a priority.

Evolving risks and jurisdictional regulation changes pose greatest challenges for growth

Topic	Average	% answered 5 = top challenge	% answered 1 = not a challenge
Evolving risks and changing regulations in the jurisdictions in which my company has legal entities	3.8	28%	0%
International transfer pricing compliance	2.8	13%	20%
Establishment or maintenance of a single, accessible centralized corporate record for entity governance	3.8	13%	9%
Organizing, managing and updating myriad legal entity documents	3.5	18%	4%

Please rate the following global growth challenges on a rating scale where 5= top challenge and 1=not a challenge

Nearly half of legal departments are involved in board-directed/-prioritized strategic initiatives

Is your legal department engaged in a strategic initiative directed or prioritized by your Board?

