



School of Law

**Lowell Milken Institute for
Business Law & Policy**

Keynote: Putting ESG in Context... And in Its Place

Paul Washington
Executive Director, ESG Center
The Conference Board



Moderator:
George S. Georgiev
Associate Professor, Emory Law School



For US CEOs, revisiting mission and/or purpose is a top 10 priority in 2023

Global CEOs		Global C-suite		US CEOs		Europe CEOs	
Attract and retain talent	1	Attract and retain talent	1	Drive revenue growth	1	Attract and retain talent	1
Drive revenue growth	2	Accelerate pace of digital transformation	2	Attract and retain talent	2	Drive revenue growth	2
Modify business model	3	Reduce costs	3	Drive profit growth	3	Accelerate pace of digital transformation	3
Drive profit growth	4	Drive profit growth	4	Modify business model	4	Drive profit growth	4
Accelerate pace of digital transformation	5	Drive revenue growth	5	Accelerate pace of digital transformation	5	Become more customer-centric	5
Reduce costs	6	Modify business model	6	Reduce costs		Modify business model	6
Focus more on innovation	7	Develop Next Gen leaders	7	Focus more on innovation		Reduce costs	7
Develop Next Gen leaders	8	Put greater emphasis on corporate culture	8	Develop Next Gen leaders	8	Reevaluate employee compensation and benefits	8
Focus more on sustainability	9	Focus more on sustainability	9	Revisit mission and/or purpose	9	Develop Next Gen leaders	9
Become more customer-centric	10	Focus more on innovation	10	Conduct mergers, acquisitions and/or divestitures	10	Put greater emphasis on corporate culture	10

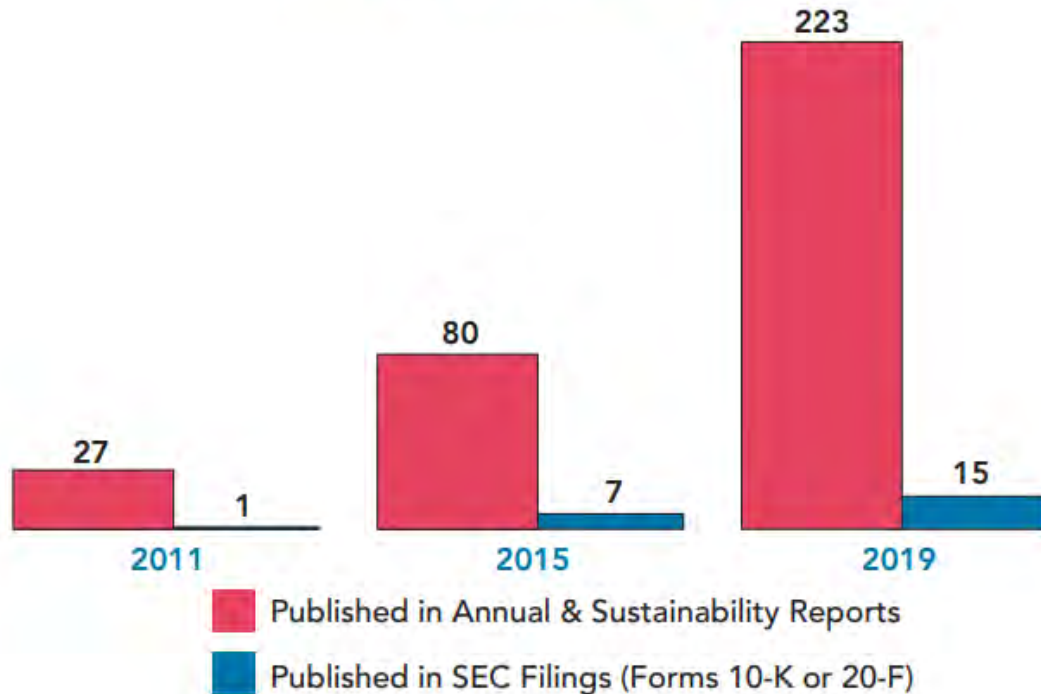
Q: Select the internal factors or issues that your company will focus on in 2023

Note: 670 CEOs responded globally.
 Source: [C-Suite Outlook 2023: On the Edge](#), The Conference Board, 2023

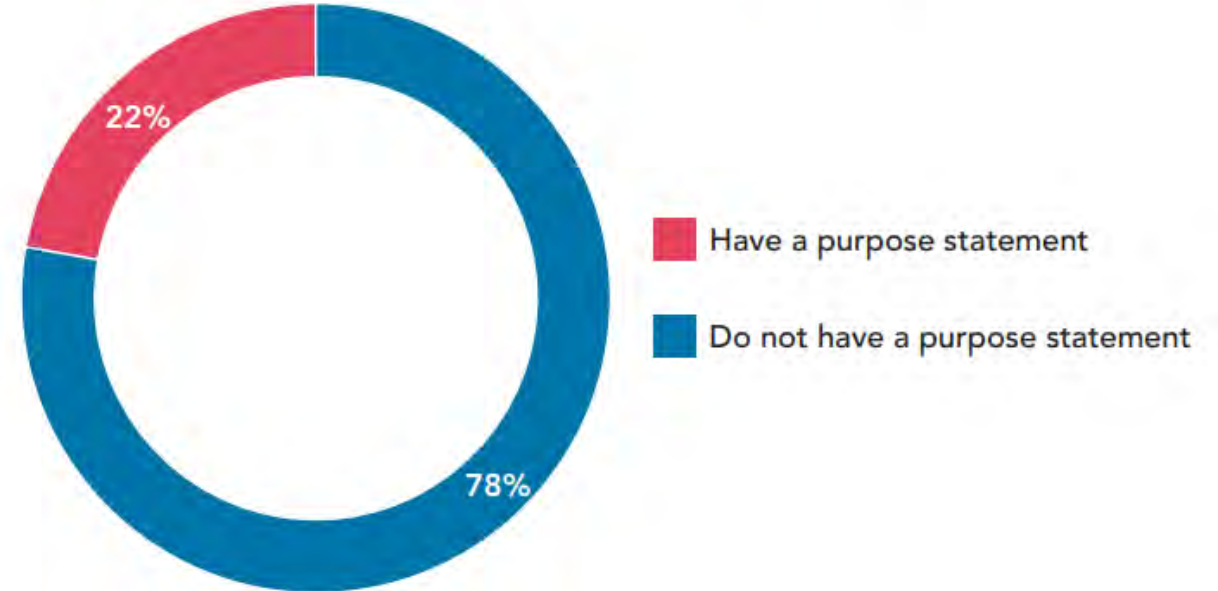


The number of companies with purpose statements is growing

Number of S&P Global 1200 companies with purpose statements



% of S&P Global 1200 companies with a purpose statement, 2019



Source: [Purpose-Driven Companies: Lessons Learned](#), The Conference Board 2020



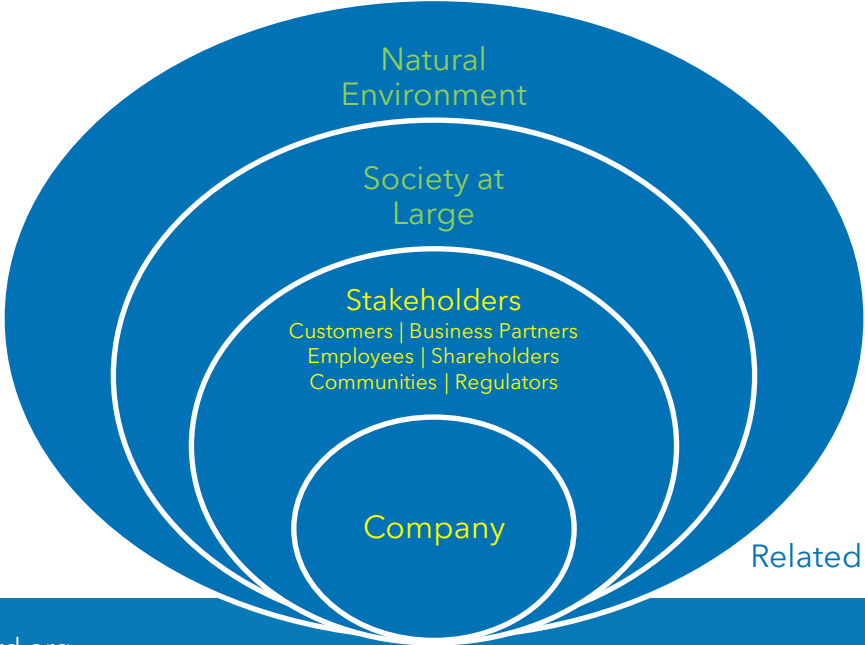
Elements of a Sustainable Corporation



Sustainability Includes a Focus on Both ESG and Stakeholders

- **Sustainability** focuses on a company's efforts on the long-term welfare of the company, its stockholders and other stakeholders, society at large, and the natural environment.
 - Became common in mid-1970s, emphasis on the environment, balancing long-term and short-term.
 - There are various definitions of sustainability, but there are common elements - focus on company as well as external stakeholders, focus on impact.
 - Popular with multiple constituencies.

***There are no universally accepted definitions of these terms. These represent the collective views expressed by The Conference Board members and reflected in our reports.*



Related Resources: [ESG Essentials: A Guide to Terminology](#)



ESG Focuses on What; Stakeholder Capitalism on Whom

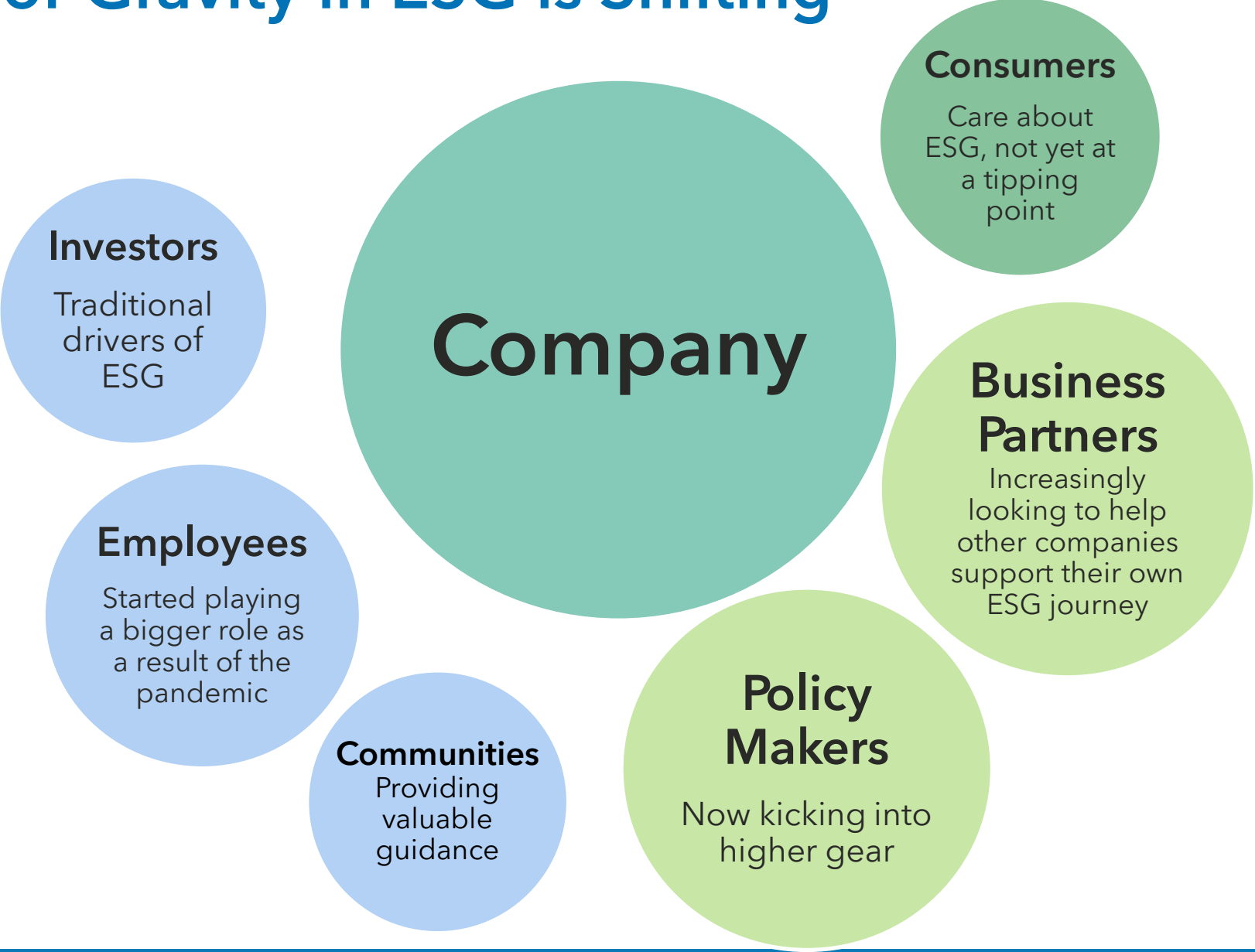
- **ESG focuses on non-financial measures in developing, executing, measuring, and reporting on a company's business strategy.**
 - Stands for Environmental, Social, and Governance; stems from UN Report in 2004.
 - Common term with investors and NGOs; less common with employees and customers.
 - Embraces over 200 issues.
- **Stakeholder Capitalism focuses on long-term welfare of employees, customers, business partners, and communities (in addition to stockholders) not just as a means to generate profits for stockholders, but as legitimate ends in themselves.**
 - Idea is not new; was dominant theory of capitalism emerging from Great Depression
 - What is new: expectations of companies (US CEOs see it as #11 of 30 external challenges), balance of power, need to understand & communicate with stakeholders
 - Companies generally have legal flexibility to decide where they are on the spectrum
 - In theory, companies should be willing to sacrifice shareholder value for other goals; in practice, difficult to calculate long-term

***There are no universally accepted definitions of these terms. These represent the collective views expressed by The Conference Board members and reflected in our reports.*

Related Resources: [ESG Essentials: A Guide to Terminology](#)

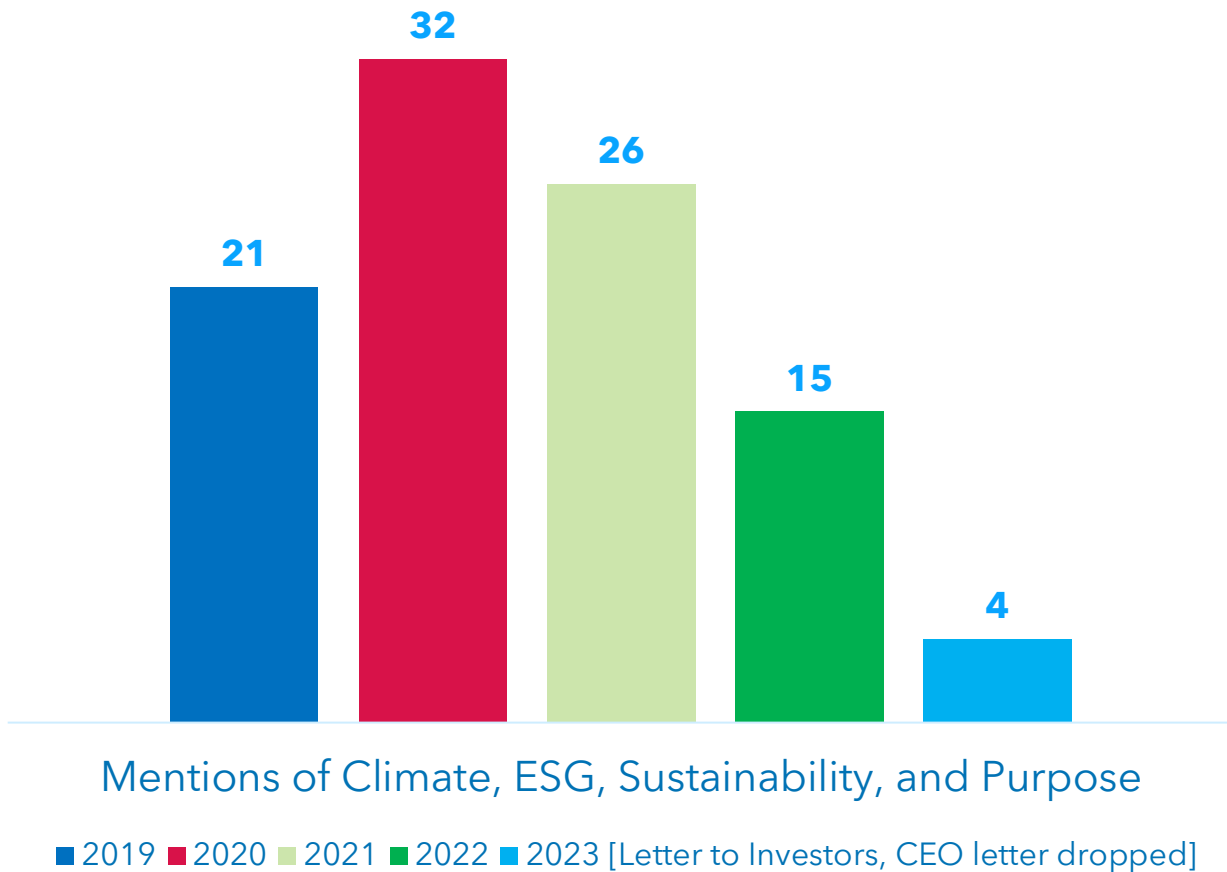


The Center of Gravity in ESG is Shifting

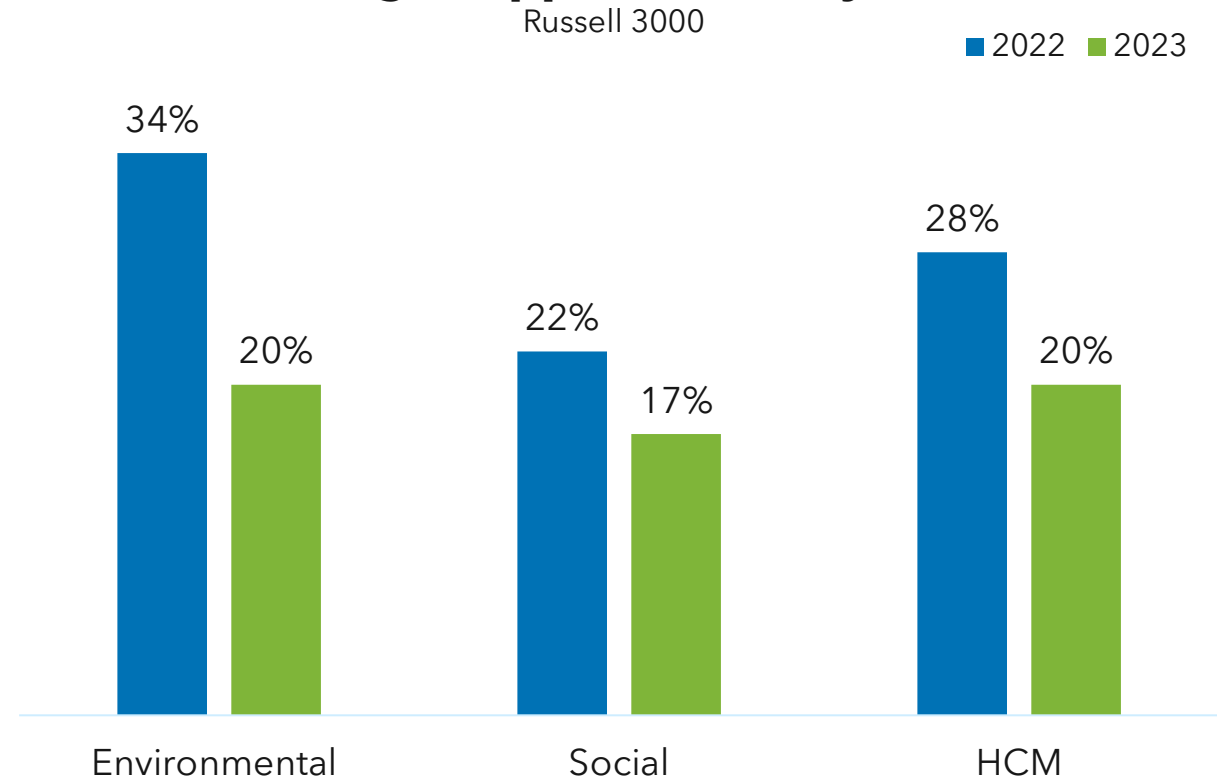


Major investors less vocal, more discerning

BlackRock's CEO Letter



E&S Proposals - Average Support Level, by Area

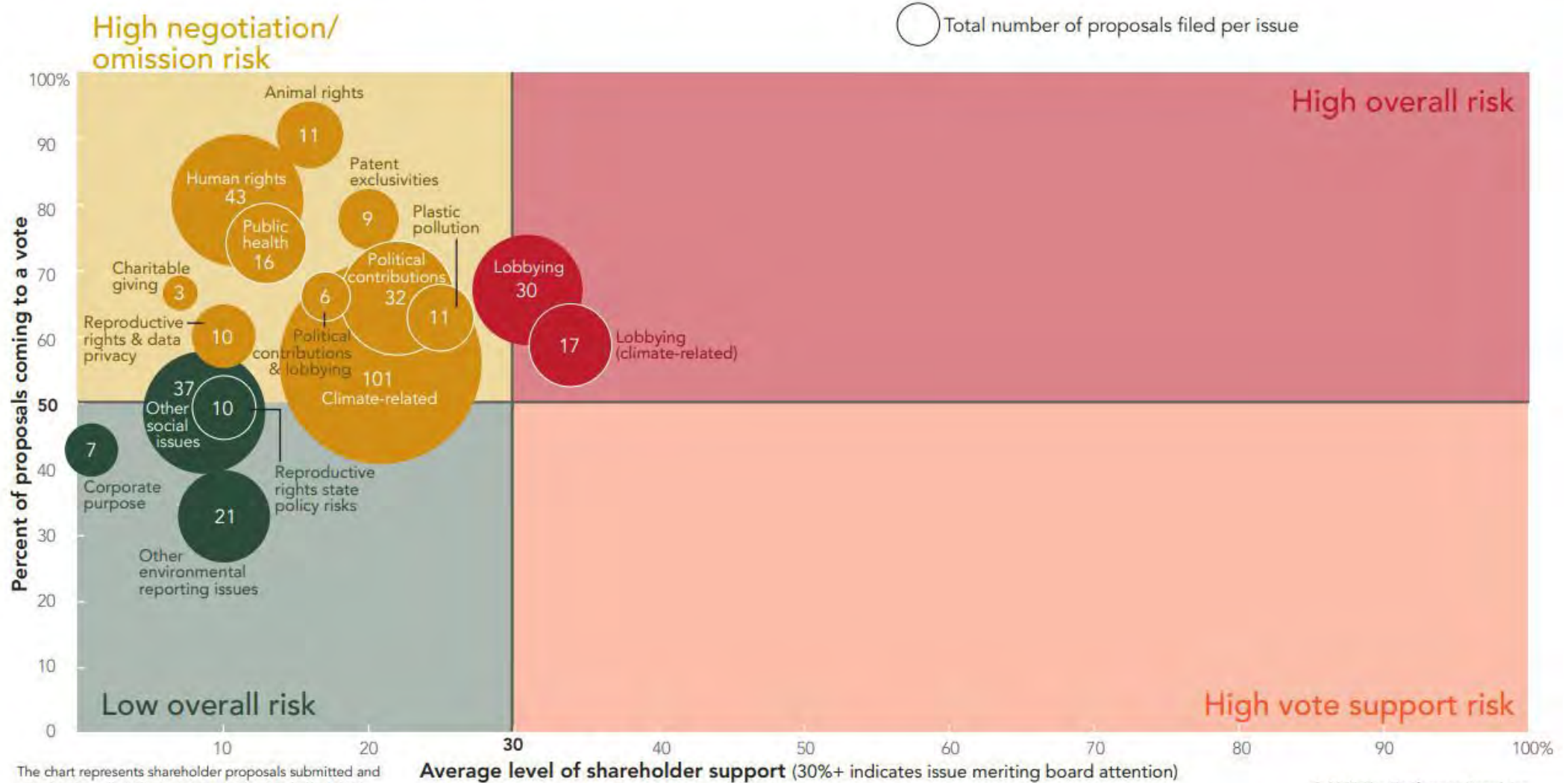


Source: ESGAUCE, 2023
Related Resources: [Proxy Season Preview 2023](#)
2022/2023: Filed and voted January through June



Environmental and Social Proposals 2023

Risk that shareholders could overturn status quo

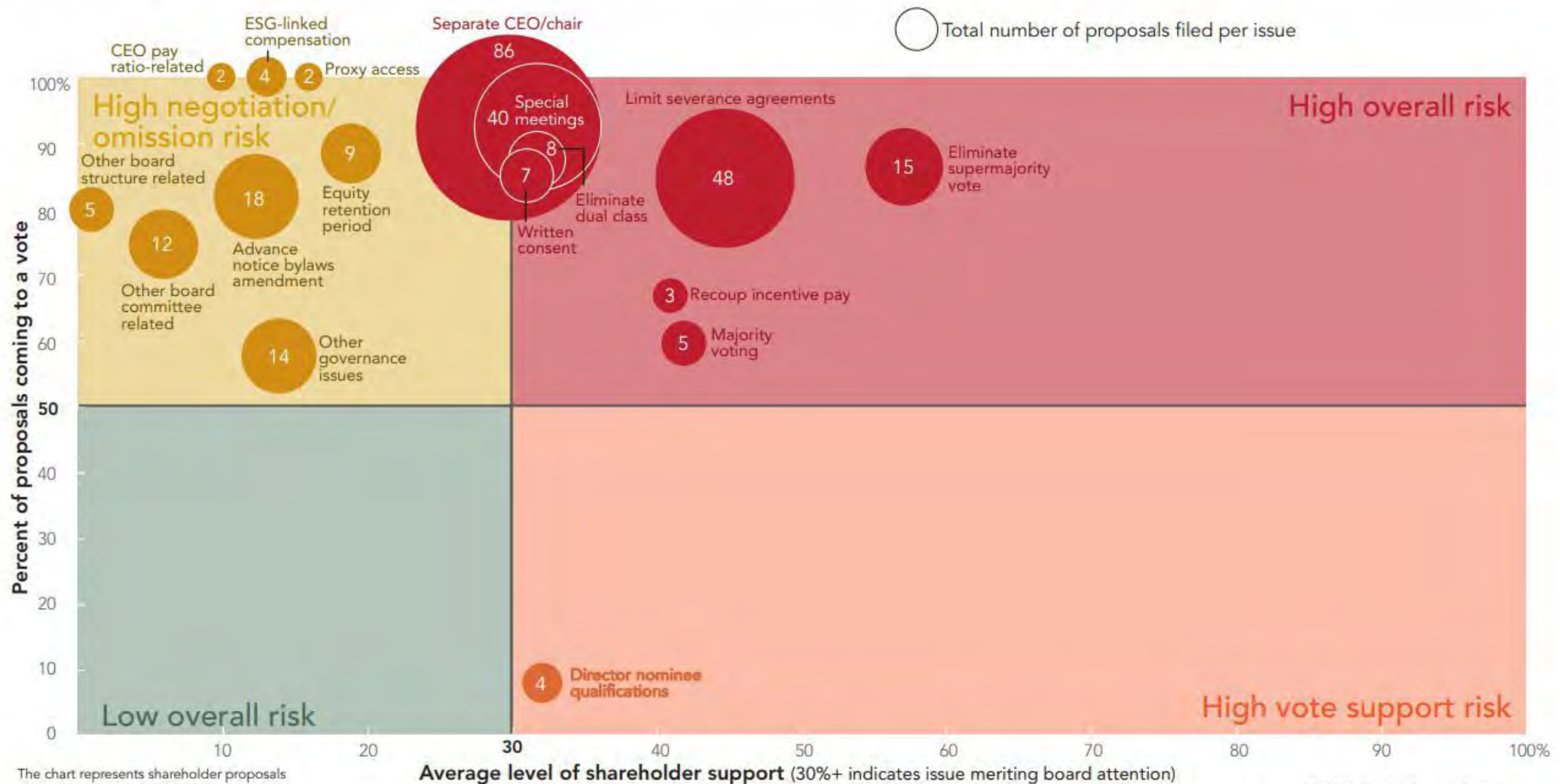


© 2023 The Conference Board, Inc.
Data drawn from The Conference Board ESG Advantage Platform, powered by ESGAUCE



Governance and Executive Compensation Proposals 2023

Risk that shareholders could overturn status quo



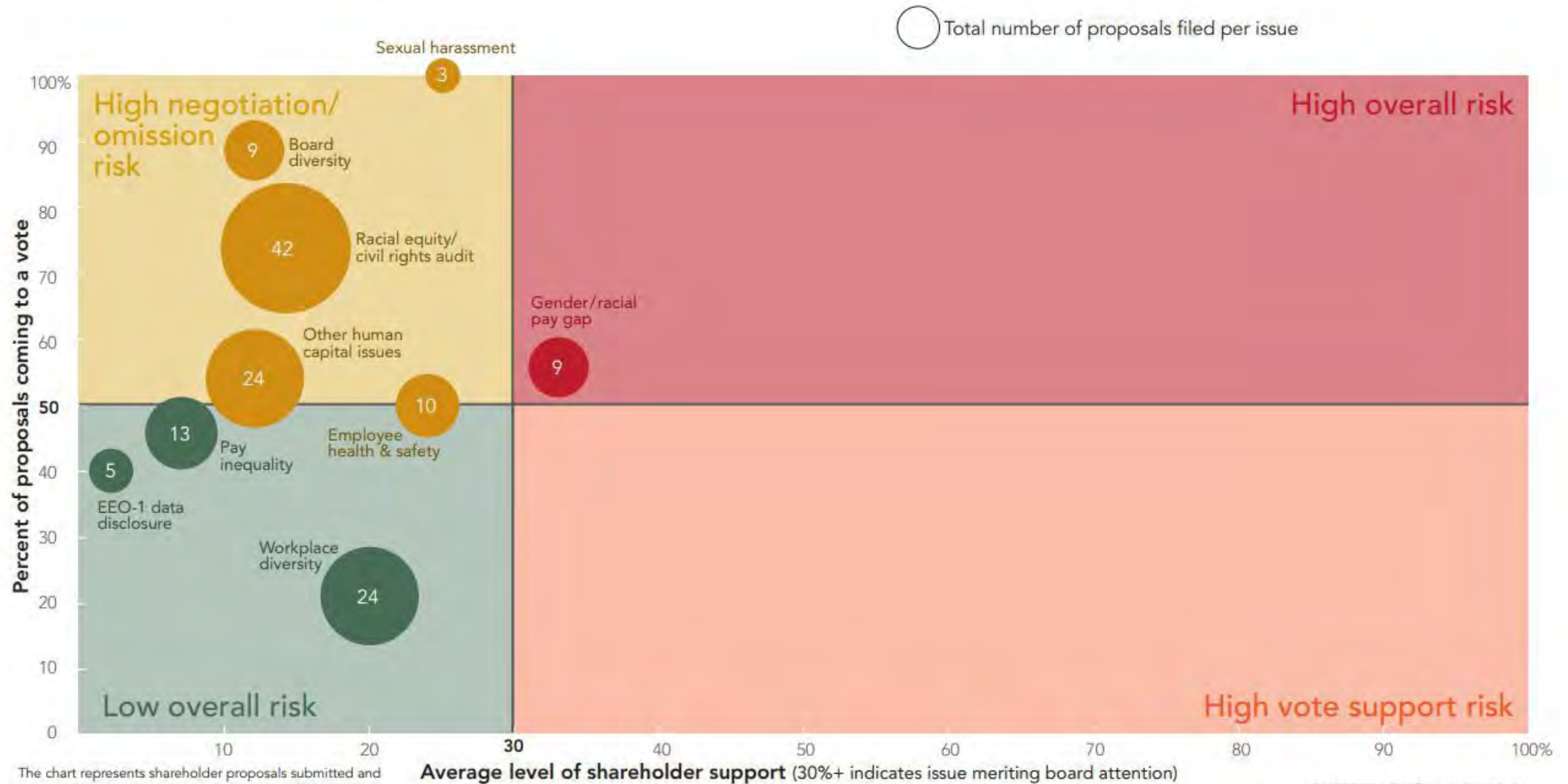
The chart represents shareholder proposals submitted and voted at Russell 3000 companies in the first half of 2023. It includes topics for which at least two proposals went to a vote.

© 2023 The Conference Board, Inc.
Data drawn from The Conference Board ESG Advantage Platform, powered by ESGAUGE



Human Capital Management Proposals 2023

Risk that shareholders could overturn status quo



The chart represents shareholder proposals submitted and voted at Russell 3000 companies in the first half of 2023. It includes topics for which at least two proposals went to a vote.

Average level of shareholder support (30%+ indicates issue meriting board attention)

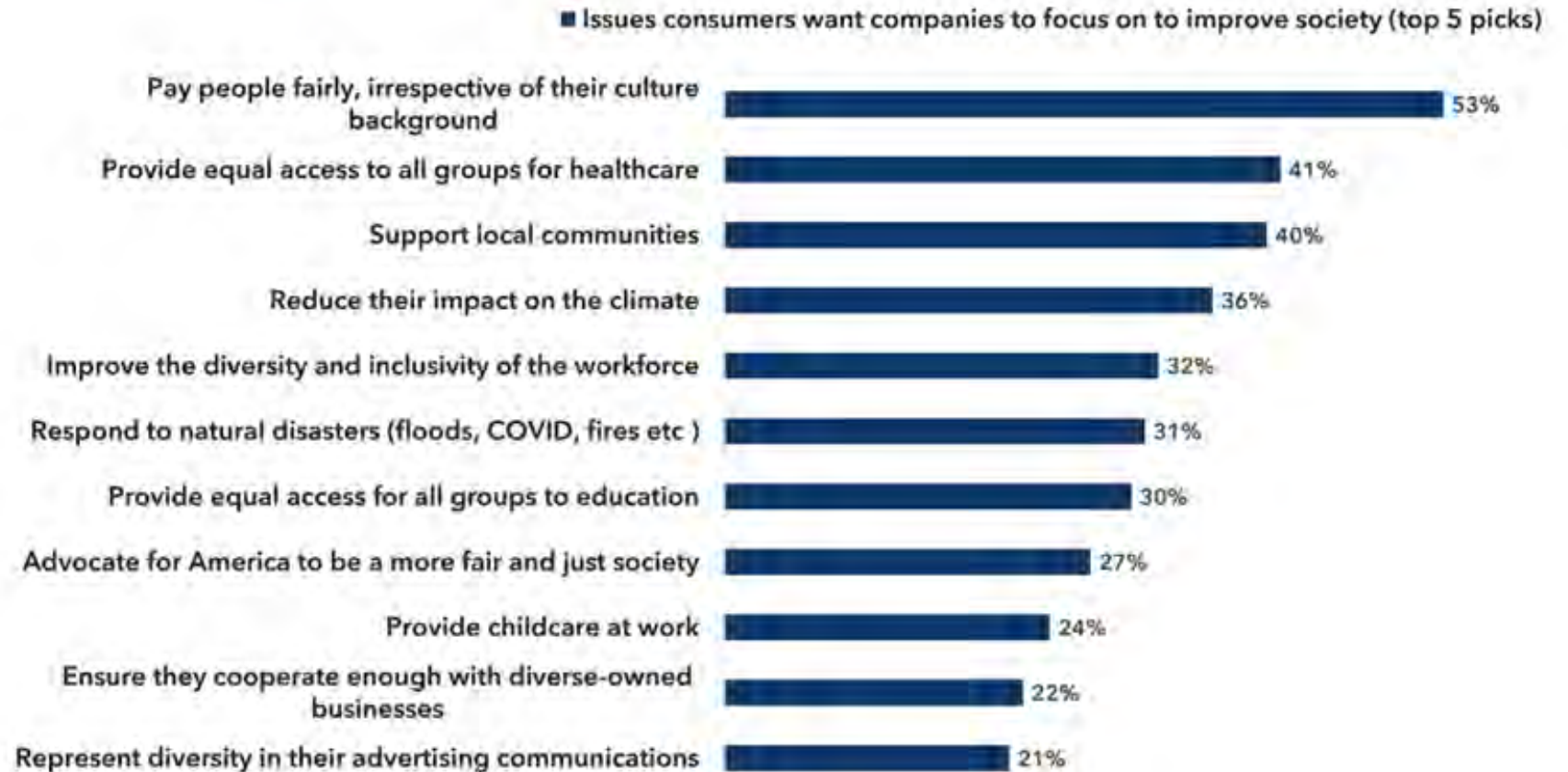
© 2023 The Conference Board, Inc.
Data drawn from The Conference Board ESG Advantage Platform, powered by ESGAUCE



Consumers look for companies to take the lead on “bread and butter” economic issues

- 81% of consumers across the world believe it's very or extremely important for companies to improve the environment
- Sustainability issues vary by region; perceptions by industry; not a fundamental driver of purchasing decision, but important to brand
- Some notable gaps between what drives consumer purchases and what companies are disclosing

Equitable Pay and Health Care Top US Consumers' Wish List for Corporate Social Initiatives



Source: Multicultural Consumer Survey Q2 2022, The Conference Board

Related Resource: [Equitable Pay and Health Care Top Consumer Wish List for Corporate Social Initiatives](#)



Business partners are increasingly important stakeholders

- Emerging as major issue - each company is looking for its business partners to help it with its own Sustainability strategy
- “Delivering on sustainability goals and commitments” is top three priority in a survey of 159 procurement executives
- 69% consider sustainability performance when selecting new suppliers and renewing contracts

How has your organization integrated sustainability criteria into procurement processes?

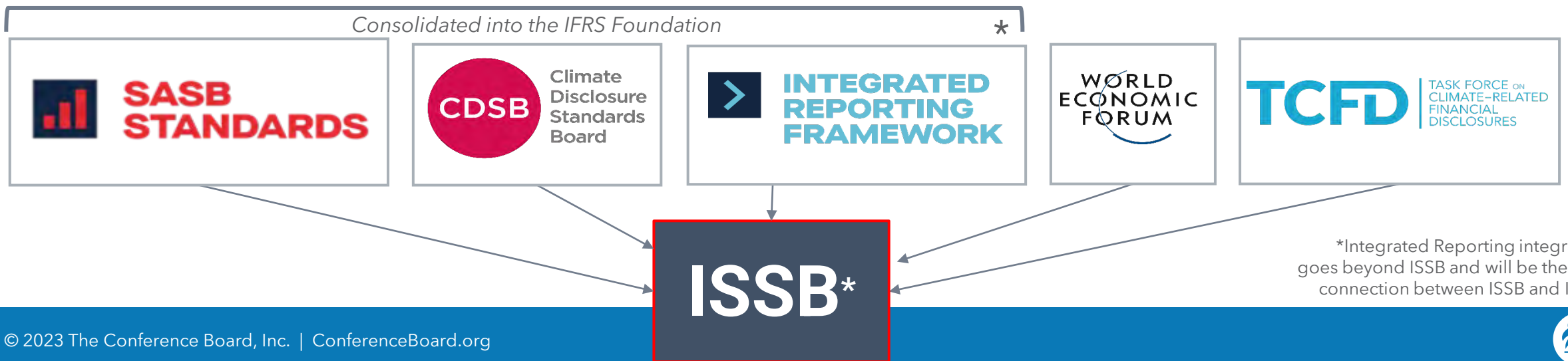


Source: [Sustainable Procurement Barometer 2021](#)



ESG reporting frameworks are evolving

- Frameworks Consolidating: As of August 2022, ISSB now houses SASB, IRRIC, CDSB
- ISSB sustainability standards likely to come into effect in 2024 for 2025 disclosures
- They will have direct regulatory impact outside of US and EU, but will have indirect impact via equity and debt markets in US and EU
- New frameworks emerging: TNFD (Sept. 2023)



Regulations are proliferating

CSRD & ESRS

EU Corporate Sustainability Reporting Directive & European Sustainability Reporting Standards

SEC PROPOSED RULES ON CLIMATE

CALIFORNIA CLIMATE-RELATED BILLS

STATUS

CSRD entered into force on January 5, 2023.
EC adopted ESRS on July 31, 2023.

Proposed by the SEC on March 21, 2022. Anticipated to be adopted in the Fall of 2022.

Senate Bill (SB) 253 (the Climate Corporate Data Accountability Act), and SB 261 (Greenhouse Gases: Climate-Related Financial Risk) passed the California Assembly and the Senate. California Governor has until 14 October 2023 to sign or veto them.

WHO

European and Non-EU companies, including:

- Non-EU companies with securities listed on an EU regulated market.
- Non-EU companies that meet the following criteria:
 - i) net annual turnover exceeding EUR 150 million in the EU for the past two consecutive financial years, either at the consolidated or individual level; and
 - ii) possess a qualifying EU subsidiary or branch with a net annual turnover of more than EUR 40 million in the previous financial year.

Expected to apply to SEC registrants (domestic or foreign)

SB 253 applies to all US companies, both public and private, that do business in California that have annual revenues exceeding one billion dollars.

SB 261 targets US companies that generate annual revenues over five hundred million dollars and do business in California.

WHEN

Will commence with financial year starting on or after 1 January 2024 for:

- large non-EU companies that have securities listed on an EU regulated market and more than 500 employees;
- large EU “public interest entities” that are already subject to the Non-Financial Reporting Directive (NFRD).

Most of the disclosure rules are projected to come into force for the 2024 fiscal year, with a phase-in period for all registrants and an additional phase-in period for Scope 3 emissions.

For SB 253: Reporting would begin in 2026 (annual reporting)
For SB 261: Reporting would begin in 2026 (two-yearly reporting instead of annual).

WHAT

- 10 ESG matters that materially affect either the company or society (double materiality).
- GHG emissions in Scope 1, 2, and 3.
- Non-EU companies will need third party assurance by a European or third-party auditor for CSRD disclosures.

- Registrants will need to disclose, *inter alia*: climate-related risks; climate-related financial statement metrics; information about climate-related targets and goals; and transition plans if any.
- Adhering to SEC requirements will not exempt companies from fulfilling their obligations under other regulations (such as the CSRD).
- Disclosures, including GHG emissions metrics, will need to be independently verified. This will entail limited assurance for Scope 1 and 2 emissions initially, with the potential transition to a higher level of assurance, such as reasonable assurance after two years.

- SB 253 mandates the California’s State Air Resources Board (CARB) to adopt regulations requiring U.S. companies that do business in California to publicly disclose their Scope 1, Scope 2 and Scope 3 GHG emissions. Companies will need to receive independent third-party assurance of their Scope 1 and 2 emissions data to start, with the potential for Scope 3 emissions assurance if CARB establishes such a requirement.
- Senate Bill 261 requires companies to publicly disclose a climate-related financial risk report on their climate-related financial risks, including measures for risk mitigation and adaptation.

Source: The Conference Board, 2023



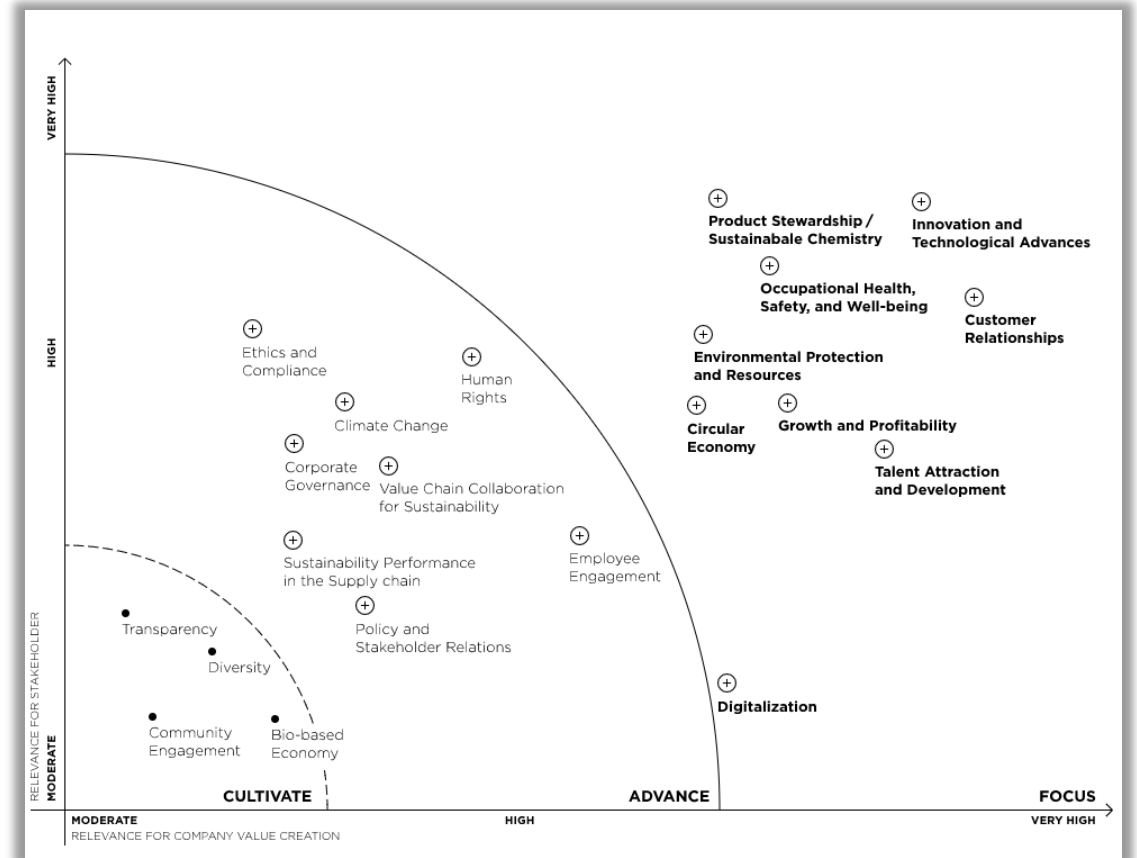
Sustainability Challenges and Opportunities



Determining what issues truly matter

- Traditional materiality analysis is a starting point
- Adopt a strategic approach
 - ✓ Where are you
 - ✓ Where you want to go in light of:
 - Competitive landscape
 - Opportunities, not just risks
 - Partnerships
 - Stakeholder expectations
 - Positive impact on company and society
 - ✓ How you will get there
 - Resources, timing

An illustration of a materiality matrix

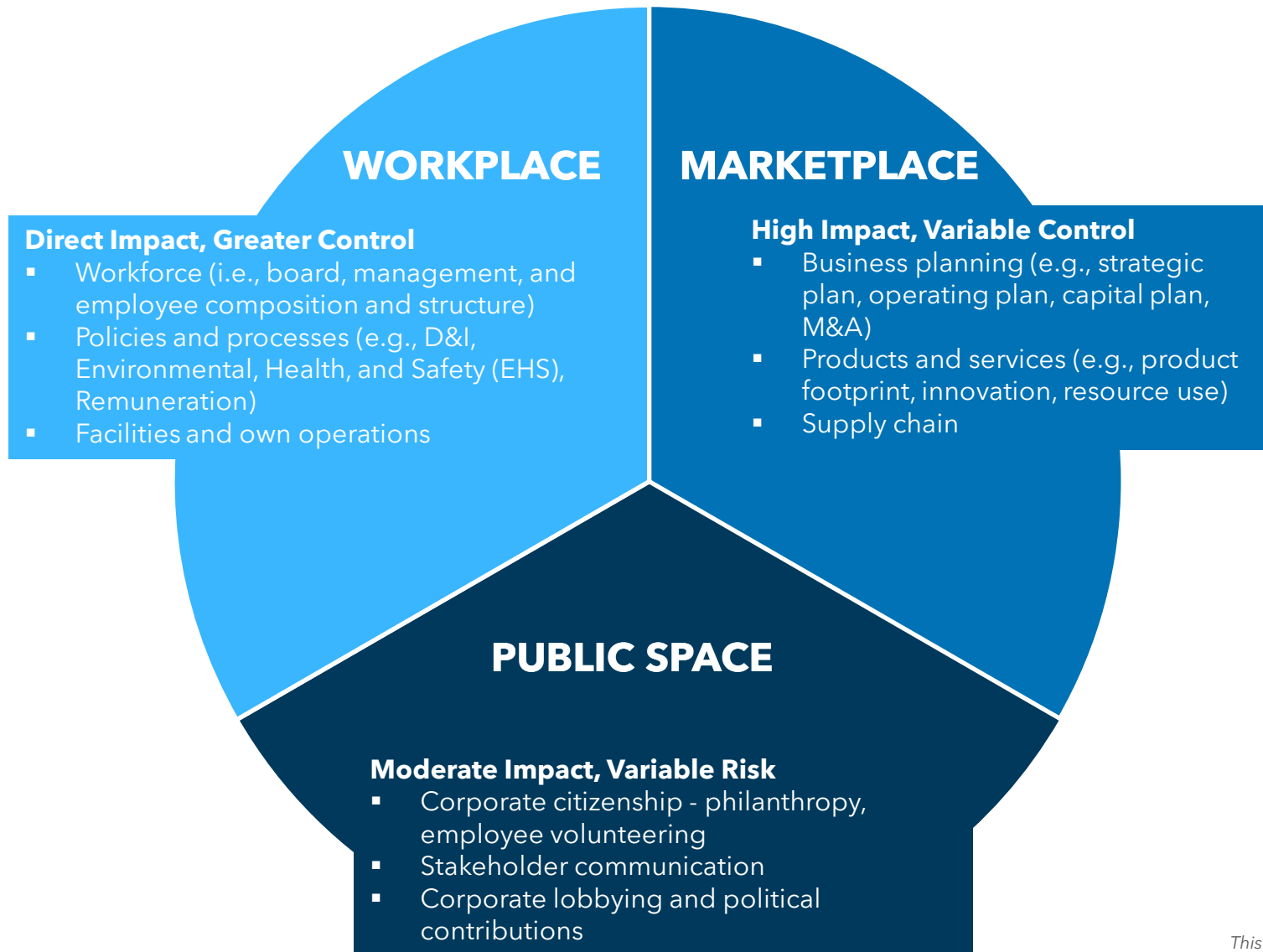


Related Resources:

- Report: [Practical Guide 1: Determining What to Include in Your Sustainability Story](#)
- Webcast: [Telling Your Sustainability Story Authentically and Effectively](#)
- Report: [Role of the CEO in Driving ESG](#)



Ways you can have impact

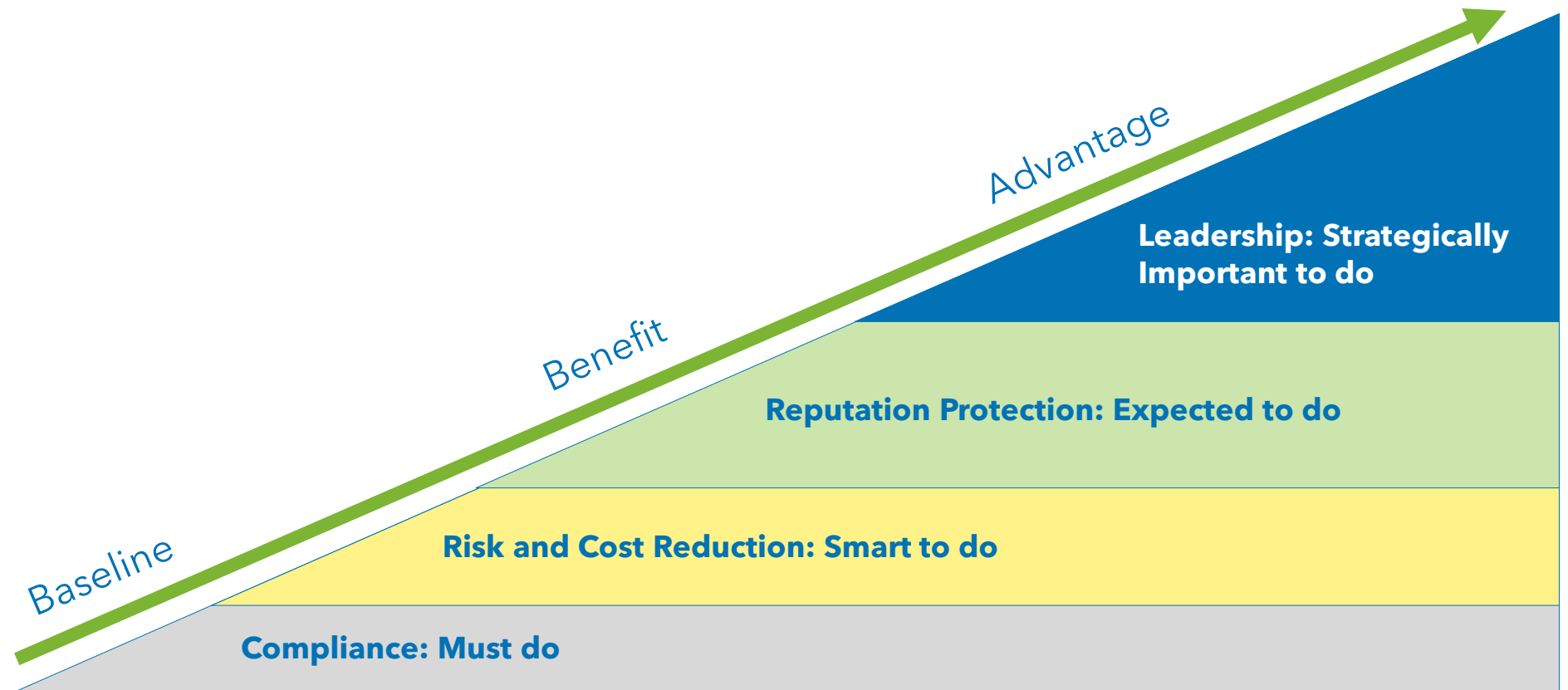


- ✓ Consider:
 - ✓ Focusing on marketplace, workplace, public space.
 - ✓ Identifying where organizational processes touch sustainability.
 - ✓ Looking for relatively easy wins: building ESG into M&A analysis

This is not an exhaustive list

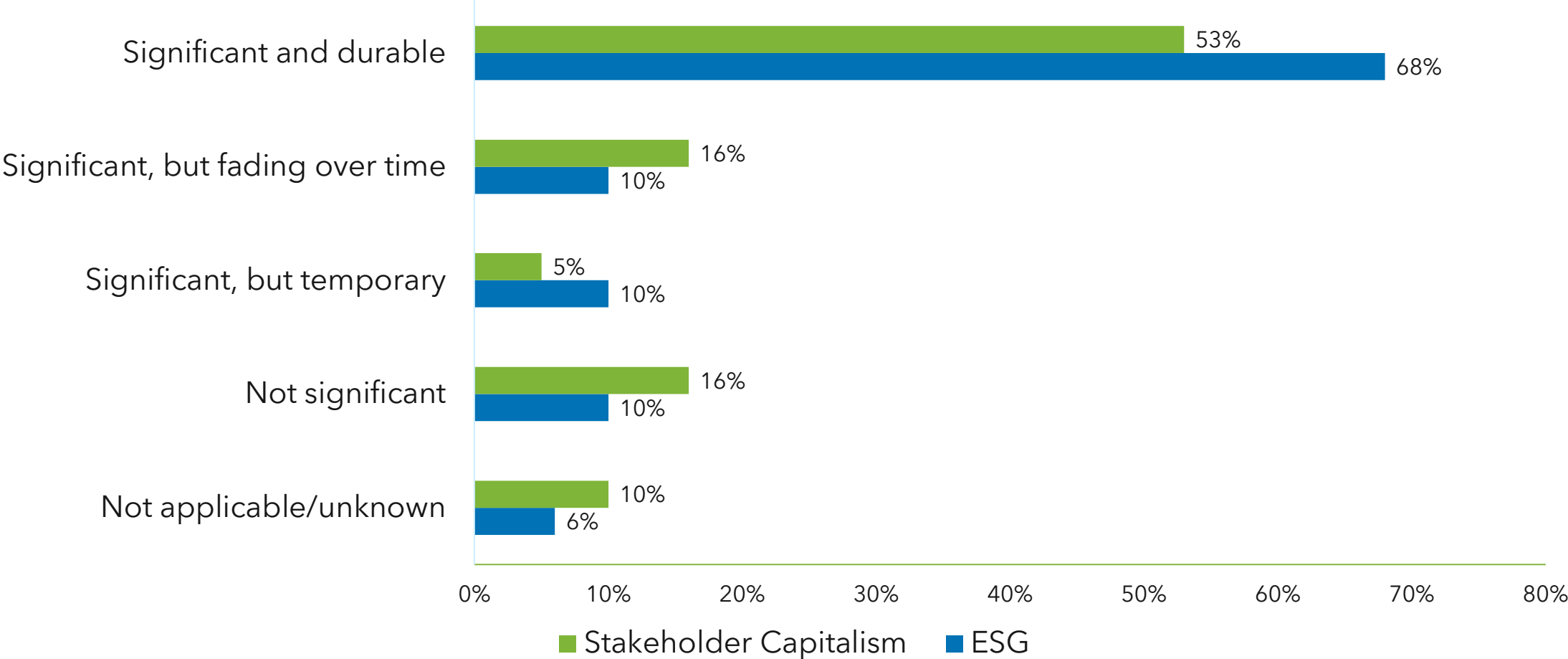


Consider how far you want to go: Organizations can choose where they want to be overall and on an issue-by-issue basis



ESG and Stakeholder Capitalism expected to have a significant and durable impact on corporate boards

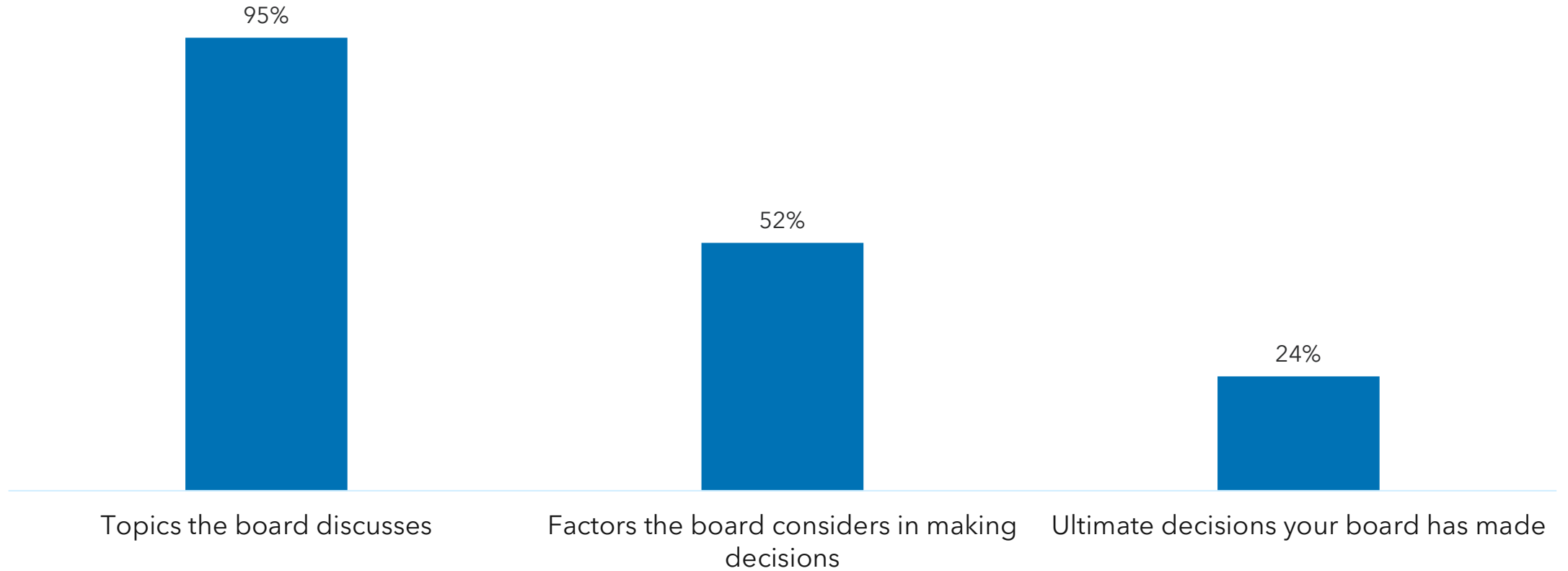
Q: How would you describe the impact of ESG issues/stakeholder capitalism on the board over the next 5 years?



Source: The Conference Board, [The Roles of the Board in the Era of ESG and Stakeholder Capitalism: Overview and Key Insights](#)



ESG and stakeholder capitalism affecting discussions more than decisions to date



Source: The Conference Board, [The Roles of the Board in the Era of ESG and Stakeholder Capitalism: Overview and Key Insights](#)



Types of ESG Backlash

Skepticism

- ESG funds under-performed broader market in early 2022
- ESG investment funds include companies with weak environmental and social records
- Companies and investors have not delivered on changes in E and S
- ESG funds have higher fees
- ESG ratings are a scam

Philosophical opposition

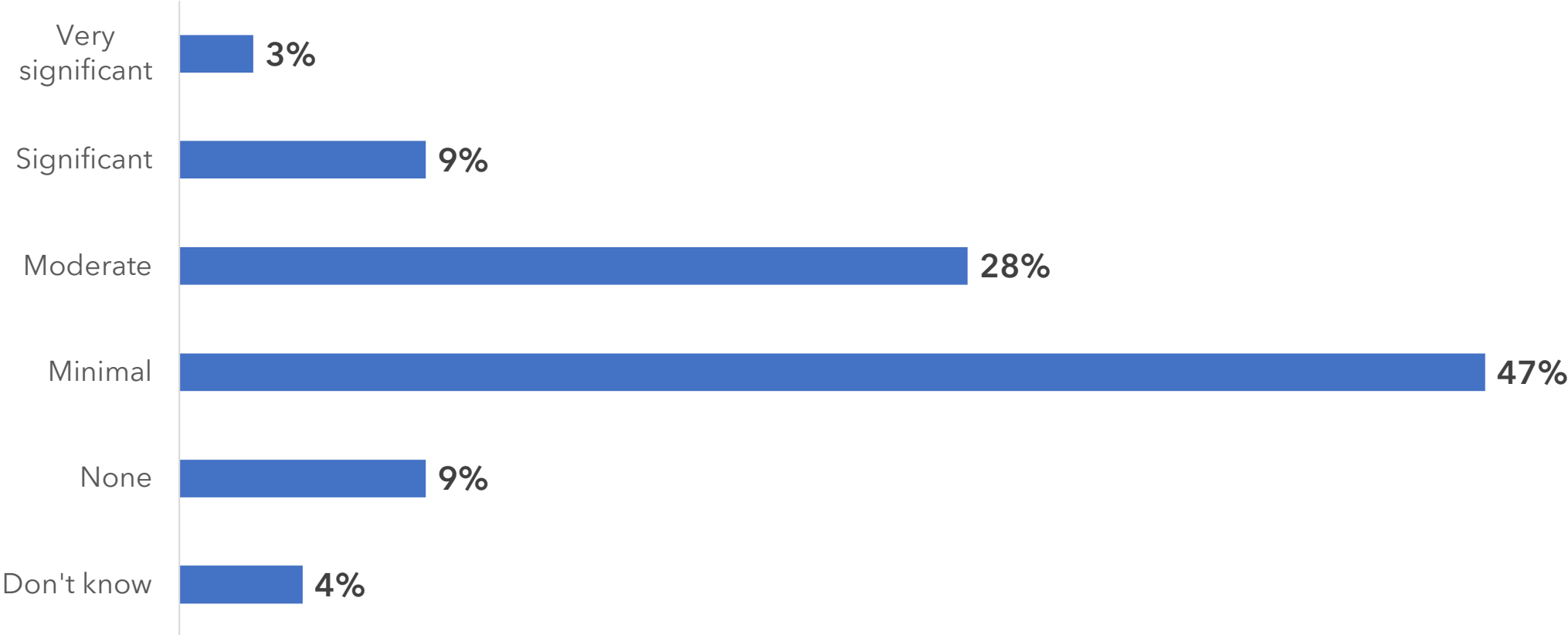
- Companies should focus on shareholder value
- Doing otherwise is illegal or, at least, distracting investors & companies from main mission
- Opposition to regulations

Opportunism

- ESG is portrayed as elitist, “woke”
- ESG is conflated with taking stands on social issues



Impact to date has been modest overall, but varies

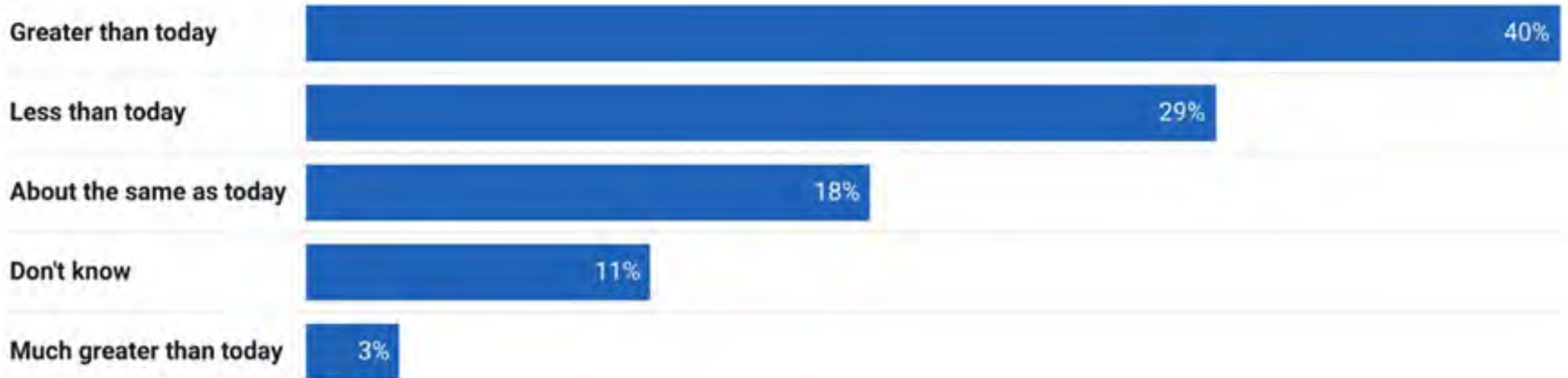


Source: How Companies Can Address ESG Backlash Roundtable, 113 participants responded



61 percent of companies think ESG backlash will stay the same or increase over the next two years

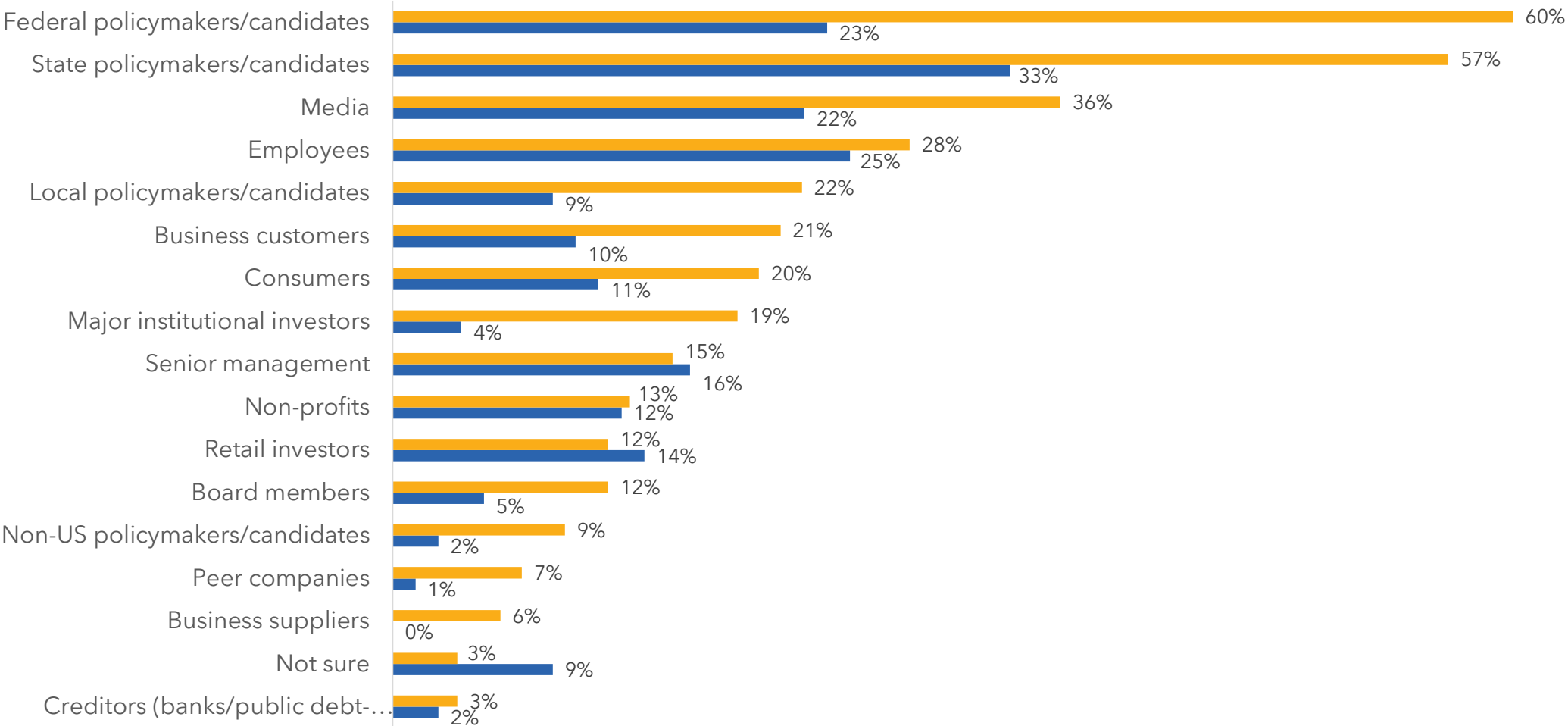
Two years from now, do you think ESG Backlash will be:



Source: How Companies Can Address ESG Backlash Roundtable, 113 participants responded



Sources of ESG Opposition Expected to Evolve



■ Looking ahead over the next two years, which sources of backlash are you most concerned about? (Please choose top five):
■ What have been the sources of backlash affecting your organization? (Please choose all that apply):



Companies are increasingly focusing on the link between ESG and value, and changing terminology when discussing ESG

How has your company responded to ESG backlash to date? (choose all that apply)



Source: How Companies Can Address ESG Backlash Roundtable, 55 respondents
Note: Numbers reflect those who have experienced some type of backlash



AI is a Test Case for ESG and Stakeholder Capitalism

**AI In The Era Of
ESG: Nine Steps
Boards Can Take
Now**

**CORPORATE
BOARD MEMBER**
a Chief Executive Group community

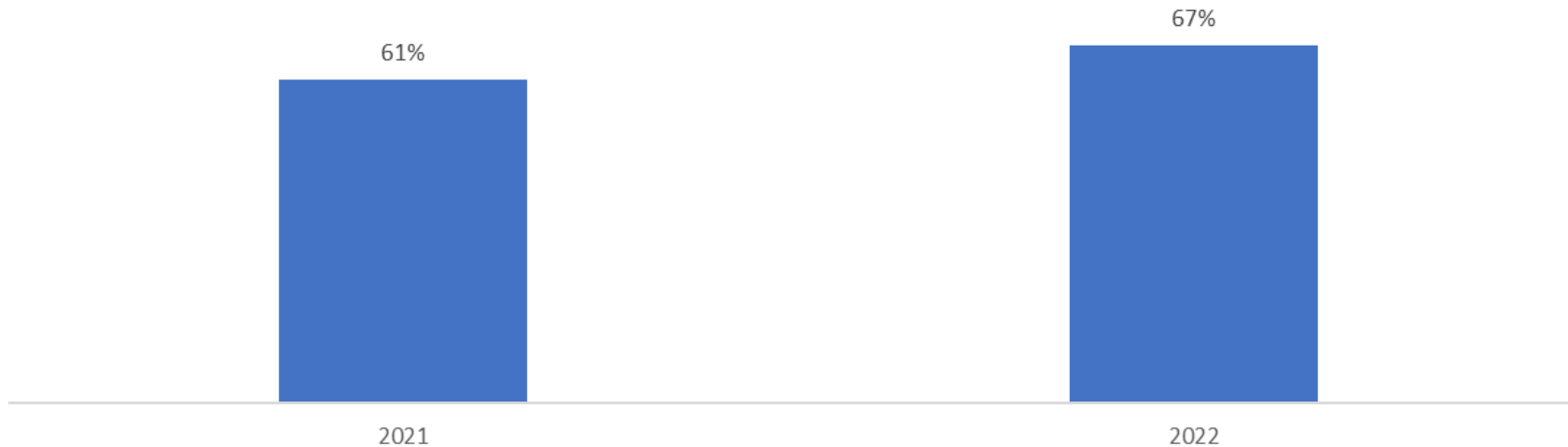
**ESG Is Changing Boards. Investors
Should Look Closely.**

BARRON'S



ESG Metrics in Executive Compensation

Percentage of S&P 500 Companies that Tied CEO Compensation to ESG Metric(s)



Source: ESGAUGE

- 49% of S&P 500 companies consider ESG as part of an executive's individual performance.
- 48% include it in business strategy scorecards.
- 24% use stand-alone ESG metrics.
- 6% use ESG performance to modify a financial or overall bonus rating.

Related Resources:

- Report: [Corporate Racial Equality Investments—One Year Later](#)
- Report: [How Companies Can Make an Enduring Difference in American Cities](#)
- Report: [Key Guidelines for ESG Metrics in Executive Compensation](#)
- Webcast: [Linking ESG Metrics to Executive Compensation: Virtue Signaling or Paying for Good?](#)



Appendix

THE CONFERENCE BOARD

The Conference Board, founded in 1916, is the world's leading a non-profit, nonpartisan, think tank serving the business community. We deliver trusted insights to help our Members improve performance and better serve society.

The Conference Board was founded by a group of CEOs concerned about the impact of workplace issues on business, and with a desire for greater cooperation and knowledge sharing among businesses.



THE ENVIRONMENTAL, SOCIAL, & GOVERNANCE (ESG) CENTER

The ESG Center is the leading independent, non-partisan, non-profit think tank in the US focusing on **corporate governance, sustainability, and corporate citizenship and philanthropy** on a global basis.

400+ C-Suite Executives
from 196 organizations

103
companies in the **Fortune 500**

- **Trusted, Objective, Independent**
- **Do Not Rate or Rank**
- **Member-Driven and Member-Focused**
- **Breadth and Depth of Offerings**
- **Unique and Timely Insights**
- **Global, Cross-Functional Perspectives**
- **Customization and Flexibility**
- **Unmatched Network of Members**
- **Opportunity for Impact**



Roundtables

- [A Crisis in Crisis Management: Preparing for a New Era of Resilience](#) | March 1
- [Addressing Economic Opportunity and Security Through Corporate Citizenship](#) | March 9
- [The Evolving Landscape of Shareholder Voting](#) | March 13
- [How Companies Can Address ESG Backlash](#) | April 13
- [The Rise of the Independent Worker](#) | April 18
- [Addressing Environmental Issues with People in Mind](#) | May 16
- [Sustainability Transition in Healthcare](#) | June 28
- [Customer-Focused Sustainability Communications in Times of ESG Backlash](#) | August 3
- [The Intersection of DEI and ESG](#) | August 9
- [CEO Roles in Driving ESG \(Part II\)](#) | October 10
- **[Sustainability Transition in Healthcare \(Part II\)](#) | October 25**

Roundtables Series

Best Practices in Reporting on Corporate Citizenship & Philanthropy

- [Session 1: The Current Landscape of Measuring and Reporting on Corporate Citizenship and Philanthropy](#) | February 23
- [Session 2: What Should Corporate Citizenship Reporting and Measurement Look Like?](#) | April 27
- [Session 3: Best Practices in Data Collection, Analysis, and Measurement of Impact](#) | June 15
- [Session 4: Organizing for Success in Corporate Citizenship Measurement and Reporting](#) | July 26

Hitting the Reset Button on ESG: Setting Strategy with the Broader Picture in Mind

- [Session 1: Prerequisites for Progress](#) | August 1
- [Session 2: Environmental](#) | October 3
- **[Session 3: Economic](#) | November 29**
- **[Session 4: Social](#) | January 25, 2024**

Click [here](#) for registrations and program descriptions, past program takeaways, and other member-exclusive materials

Center Briefings

- [The FTC's Proposed "Non-Compete Clause Rule"](#) | February 16
- [Upskilling Your Workforce in Sustainability](#) | May 4
- [Best Practices in Racial Equity and Civil Rights Audits](#) | June 7
- [The Impact of CSRD on US Companies](#) | June 13
- [The Governance of AI](#) | June 27
- [M&A and ESG](#) | September 12
- **SEC Cybersecurity Disclosure Rules | November 2**
- **Setting and Disclosing a Company's ESG Goals | TBD**
- **Overview of Final SEC Climate Disclosure Rules | TBD (pending release of new rules)**

Corporate Citizenship Summit

DECEMBER 5

80 Years of Corporate Citizenship Leadership and Insights
New York, NY

ESG Summit

DECEMBER 12

Sustainability-Based Innovation
TCB HQ - New York, NY

2024: A Year In Preview

JANUARY 31 - FEBRUARY 1, 2024

Palm Beach, FL



THE ESG CENTER | FIRST LOOK AT 2024 PROGRAMS

SUSTAINABILITY

- Hitting the Reset Button on ESG (Cont'd)
- Integrating Sustainability into your Business (Cont'd)
- Telling your Sustainability Story/Global ESG Backlash/Greenwashing 2.0
- Guide for Chief Sust. Officers and Organizations
- Effectively Managing ESG Data
- Intersection of Sustainability and Technology/AI
- Private Companies and Sustainability
- Sustainability in Transportation
- Transition to a Low Carbon Economy
- Biodiversity
- Supply Chain Responsibility and Resilience
- A Multi-Generational Approach to Sustainability
- ROI of Sustainability
- Governance of External Collaboration
- Environmental Justice
- The Future of Diversity in the Workplace, Marketplace, and Public Space

GOVERNANCE

- Board Oversight of Corporate Culture
- Board Oversight Knowledge Protection in Era of AI
- Governance of Risk Management and Disclosure
- Governance of Innovation
- What Boards and Management Need to Know About Stakeholders
- Board Composition, Structure, and Practices
- 2024 Proxy Season Preview and Review
- Executive Compensation Practices
- CEO Succession Practices
- Environmental Disclosure Practices
- HCM and Social Disclosure Practices
- Shareholder Voting 2.0
- Navigating an Election Year

REGULATION

- SEC Climate, HCM, Shareholder Proposal Rules Implementation
- CSRD and CSDDD Implementation
- Complying with Sanctions
- Government Procurement in Driving Sustainability
- Potential Future Regulation of PFAS
- Current Global Antitrust Environment

CITIZENSHIP

- Corporate Citizenship Strategic Planning
- Best Practices in Societal Impact Measurement
- The ROI of Corporate Citizenship
- Managing Corporate Citizenship Globally: Executing while Navigating Geopolitics
- The Role of Corporate Citizenship in Addressing Environmental Issues
- Corporate Citizenship and Political Polarization
- Corporate Citizenship and Generative AI
- Innovative Approaches to Education
- Corporate Citizenship: Communicating Internally and Externally
- Corporate Citizenship and Employees
- Innovative Solutions to Global Food Insecurity
- Disaster Philanthropy Practices 2024
- Business Support for the Arts 2024
- Governance and Management of Corporate Citizenship (Cont'd)

