

## Shaping the future of digitalization

Global perspectives on digital technologies,  
risk and corporate digital responsibility

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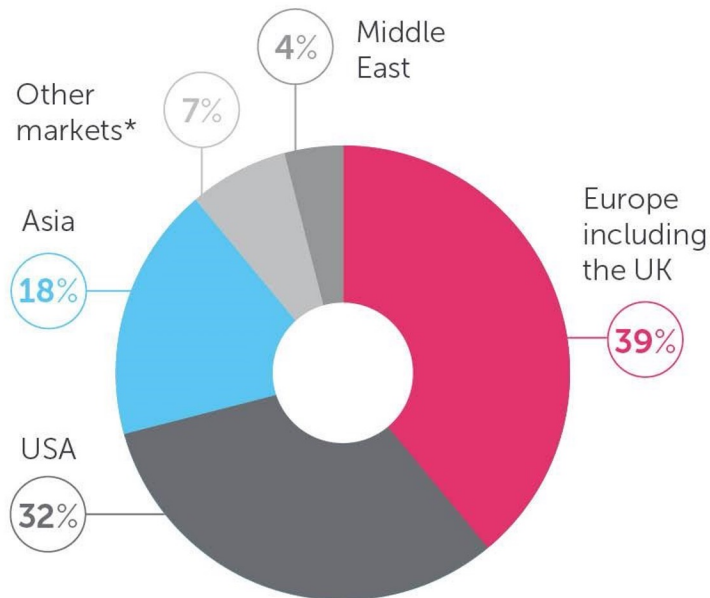
**Hannah Wilkins**, *Partner, Labor & Employment*

# Shaping the future of digitalization: The report



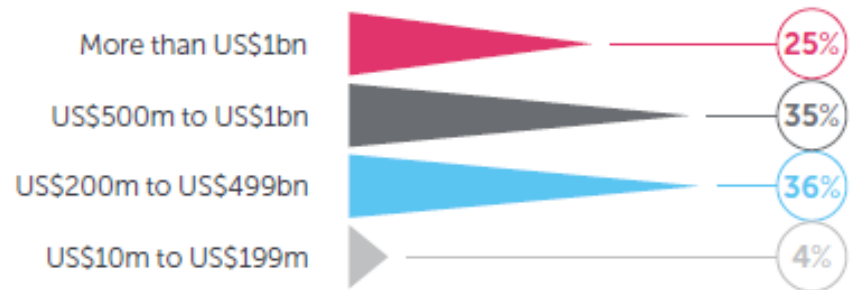
# 700 executives surveyed worldwide

## Region breakdown

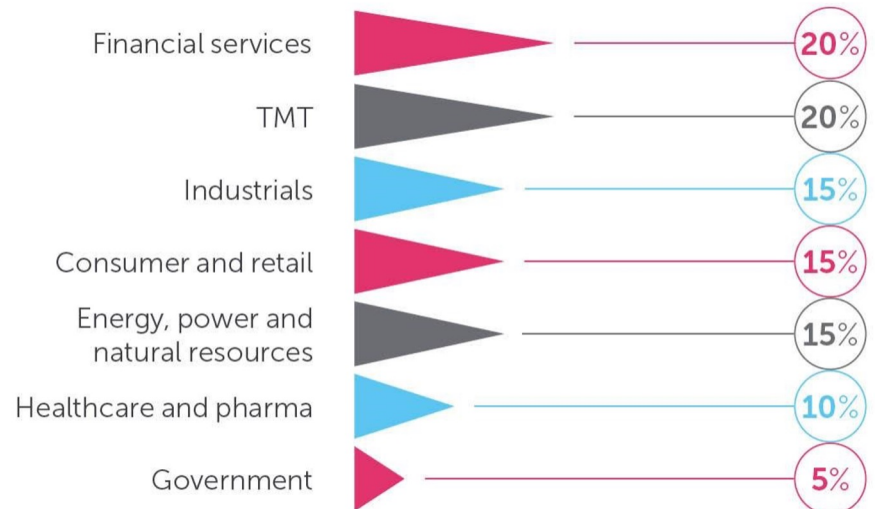


\*Other jurisdictions around the world with a strong or emerging focus on digital technology including Mexico, Brazil, South Africa and Indonesia

## Size breakdown (revenue)



## Sector breakdown



# Contributors



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# Key definitions



## Defining digitalization

Digitalization is the application of digital technologies to transform business activities, processes, competencies and models to fully leverage the changes and opportunities brought about by technology and data. This encompasses a company's procurement, deployment and/or use of such technologies. It also encompasses businesses developing, selling/re-selling or licensing out such technologies. In all cases, this could be for internal use or customer-facing purposes, making it relevant to all companies regardless of sector



## Defining corporate digital responsibility (CDR)

CDR is a set of responsibilities (relating to commercial, legal, compliance, ethics, ESG, governance and oversight imperatives) that organizations should consider when making decisions relating to technology and data and when implementing their digitalization strategy

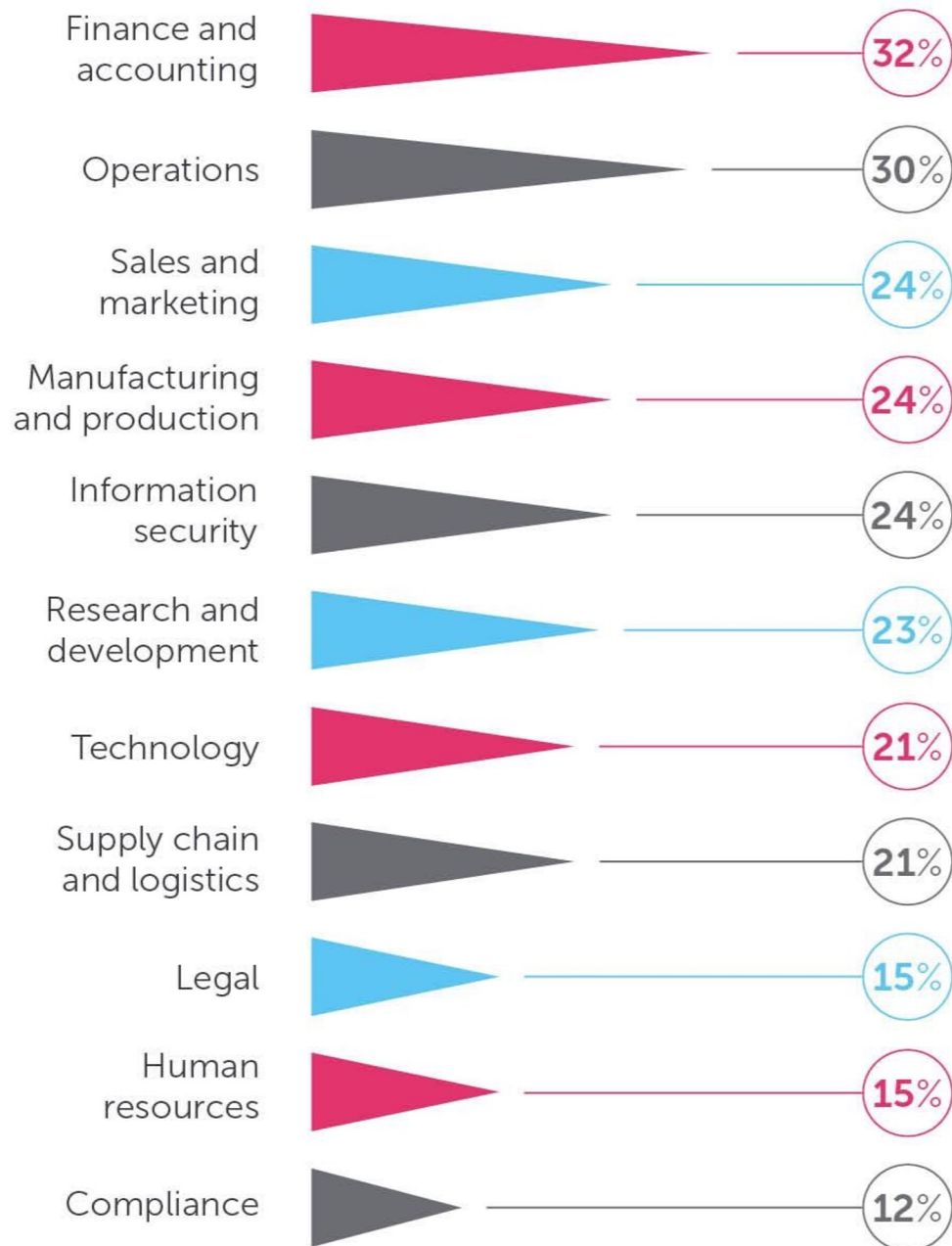


## **Future trends:**

Investments in digital  
technologies

# Main objectives for using digital technologies

## Functions businesses are prioritizing for digital technology investment during the next three years



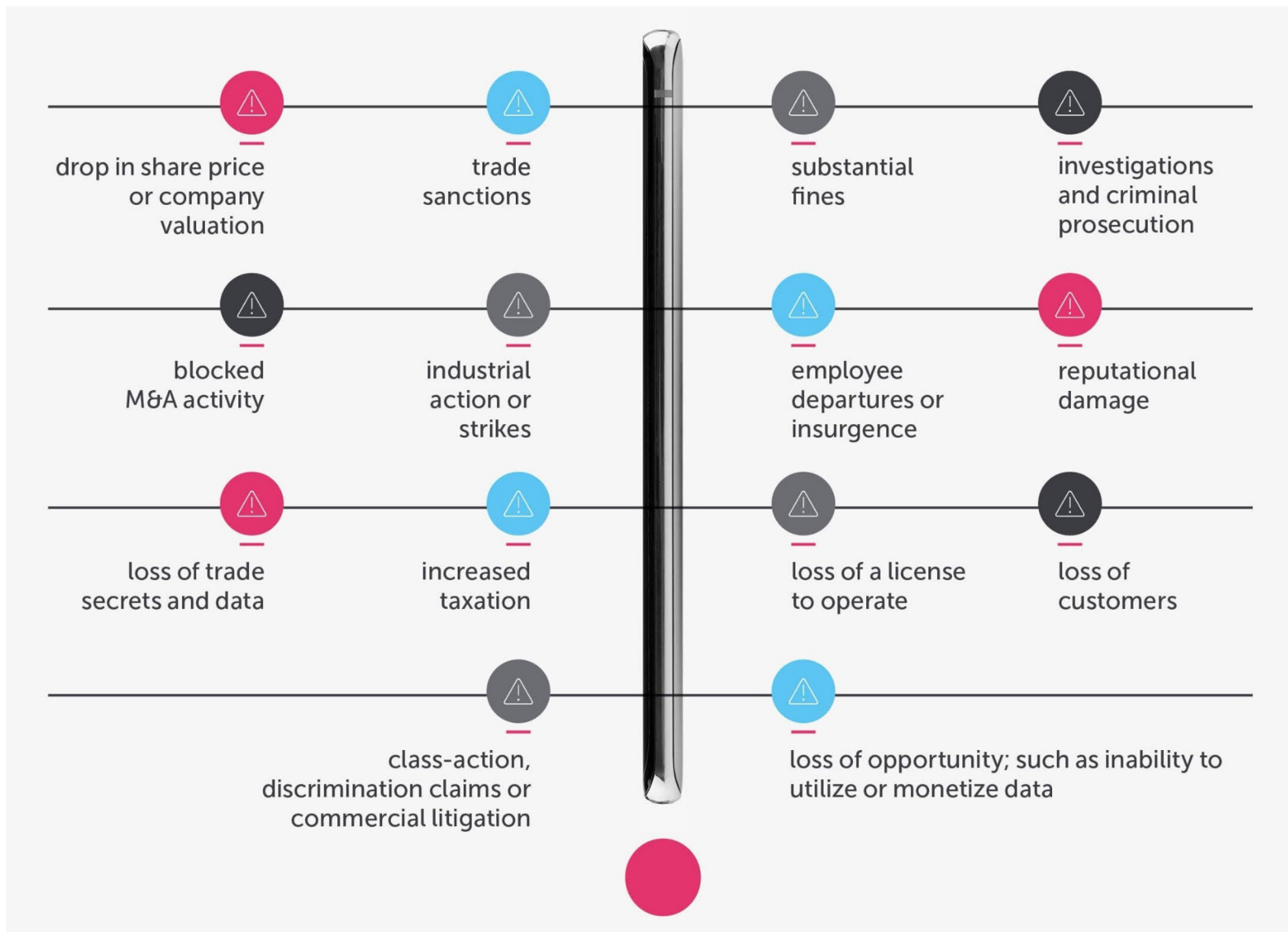


# Which digital technologies are in highest demand?

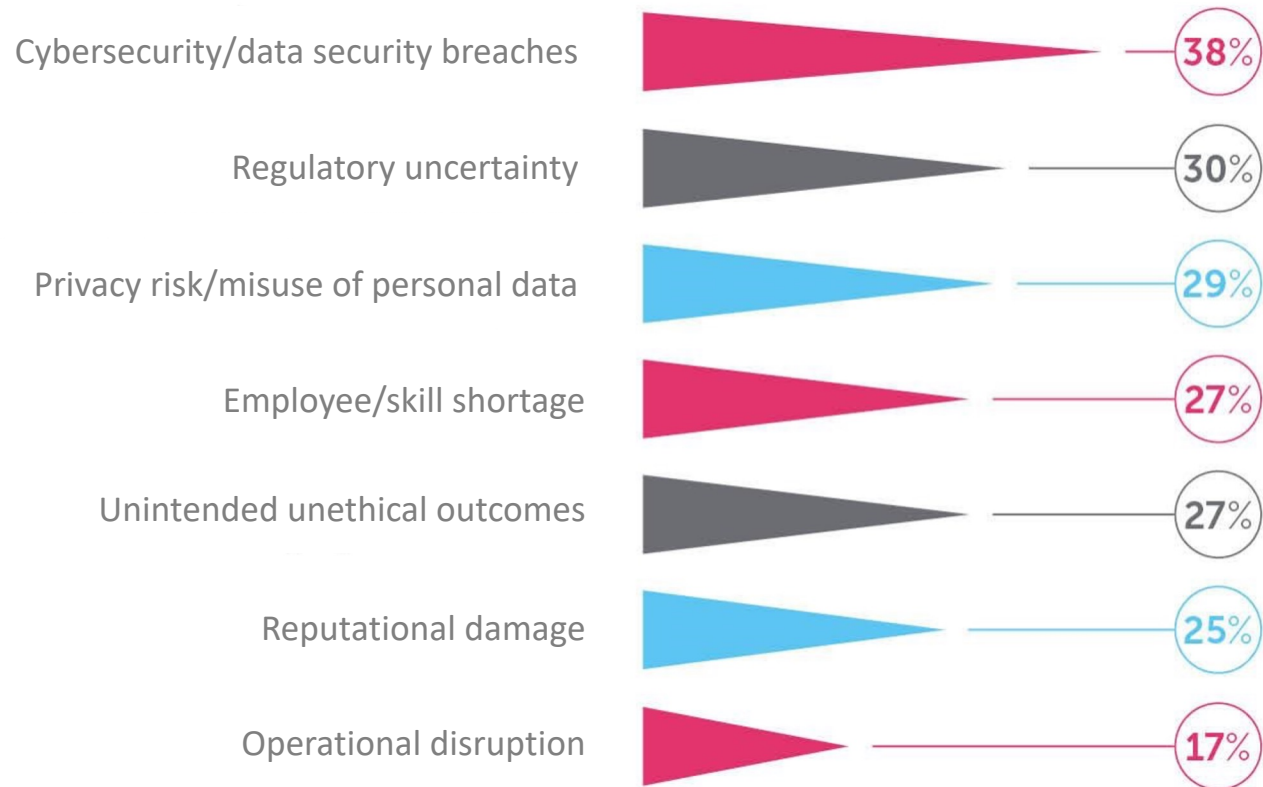
- ▶ Plan to use in the next three years
- ▶ Use now

# **High risk, high reward: Evaluating and navigating risks**

# Navigating risks

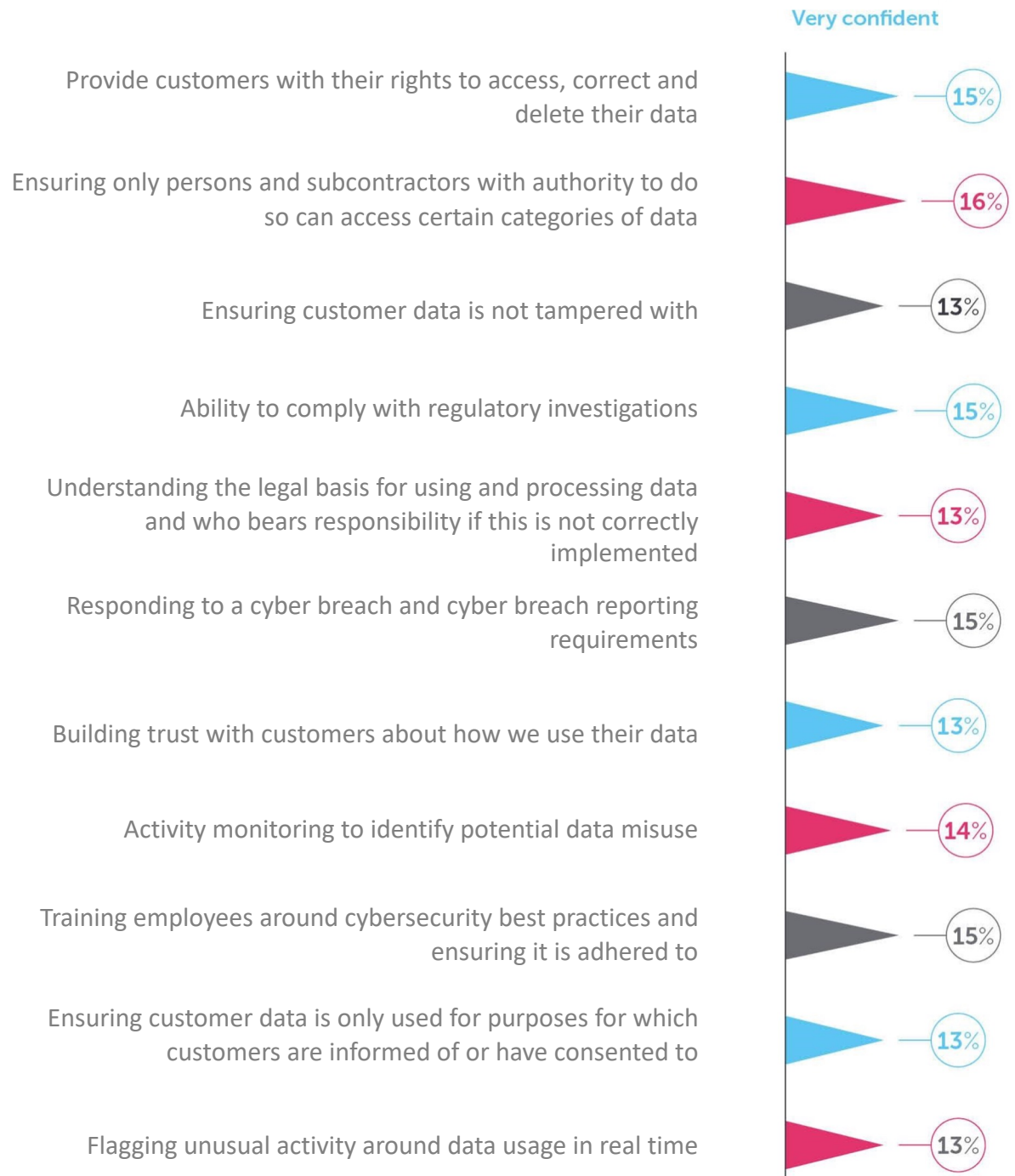


# Top risks associated with the use or provision of digital technologies

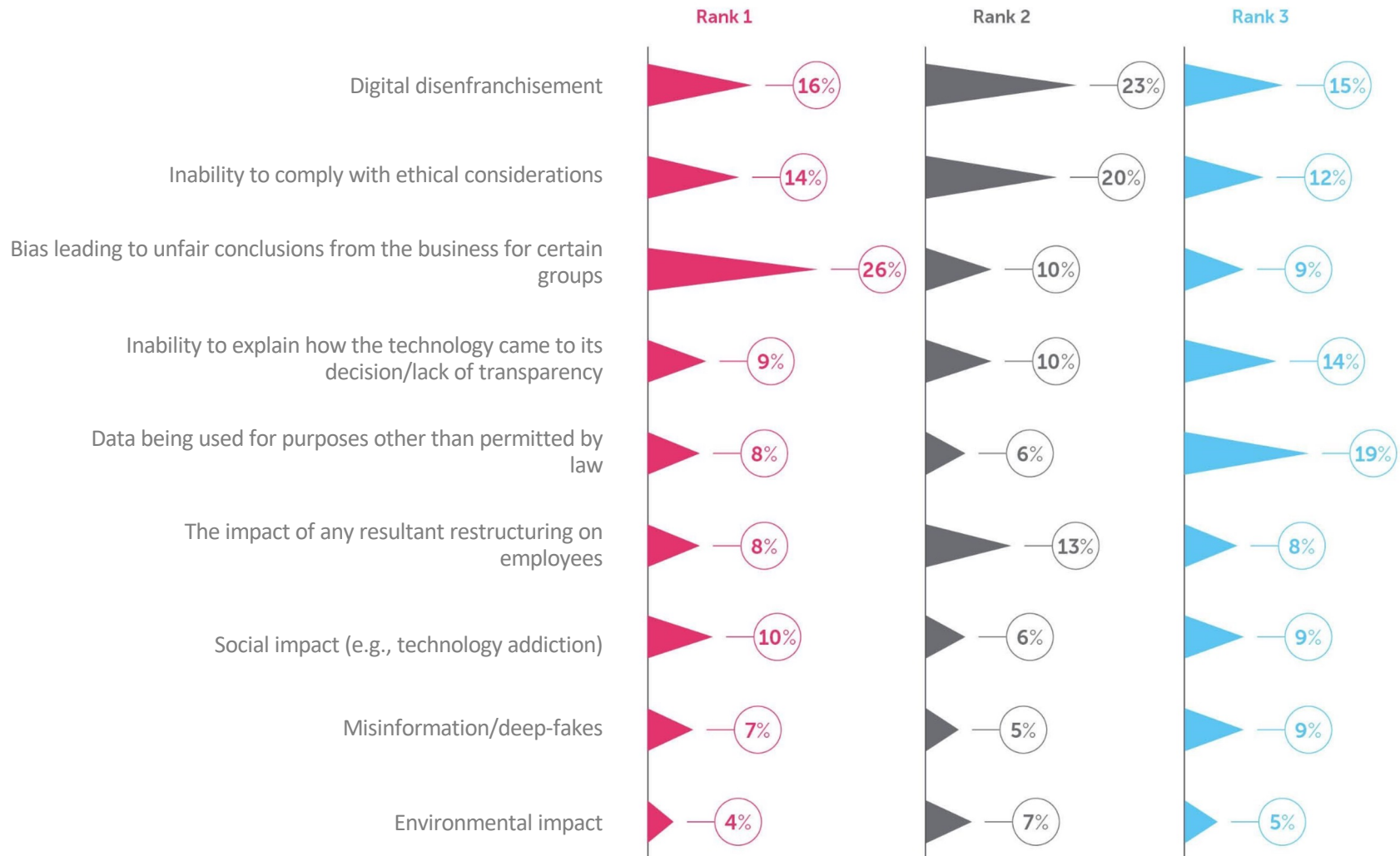


**How confident are you in your organization's ability to do each of the following?**

***Each relate to practices associated with collecting and monetizing data.***



# Greatest risks related to unintended unethical outcomes





## **Litigation and Product Safety**

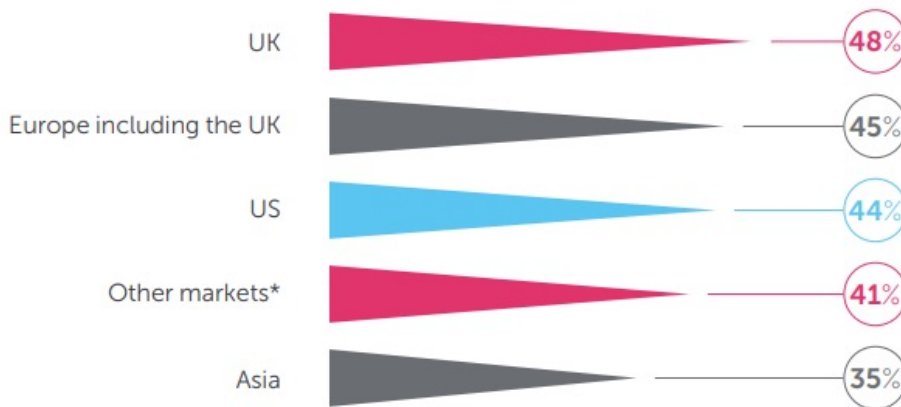
## **Managing disputes when risks become reality. For resolving disputes relating to digital technologies, which methods do you use now, and anticipate using in 3 years time?**

- Interesting regional and sectoral variances, both now and in the future; relevant at contracting stage, addressing some of the barriers to use, and in adopting the right strategies
- Globally, arbitration over litigation (32% vs 24%), esp. emerging markets (40%) and China (44%). Arbitration used least by respondents in ME. Arbitration preferred more by customers than providers of technology
- Globally, use of litigation and arbitration will remain largely static over next three years, but exceptions by sector and jurisdictions. E.g., use of litigation in ME and Germany.
- Alternatives: mediation a clear favorite globally, most popular in Asia, and Germany, Energy and Industrials. Least prevalent in US and ME
- Online, AI-assisted and modified arbitration/adjudication schemes show far less adoption, but US and Germany leading the way. Will increase over next 3 years, but not eclipse A, L or M. Favored more by providers than customers of tech, now and in the future
- Litigation funding used by 25%, particular hotspot is ME, near zero in Germany. Not expected to increase globally over the next 3 years, but exceptions include Europe and Asia
- Now and in the future, litigation funding will be used more by those using tech than those providing it



- ‘**Digital safety gap**’ is emerging as customer-facing products and solutions advance faster than back-room safety assurance(s)
- **The impact?** Regulatory action is the biggest concern. Class actions are a worry especially in the US
- European businesses focus concerns around risk averse cultures making them uncompetitive
- **Takeaway:** If you want to stay ahead, don’t wait for regulation – invest in safety resilience to match your tech risk exposure

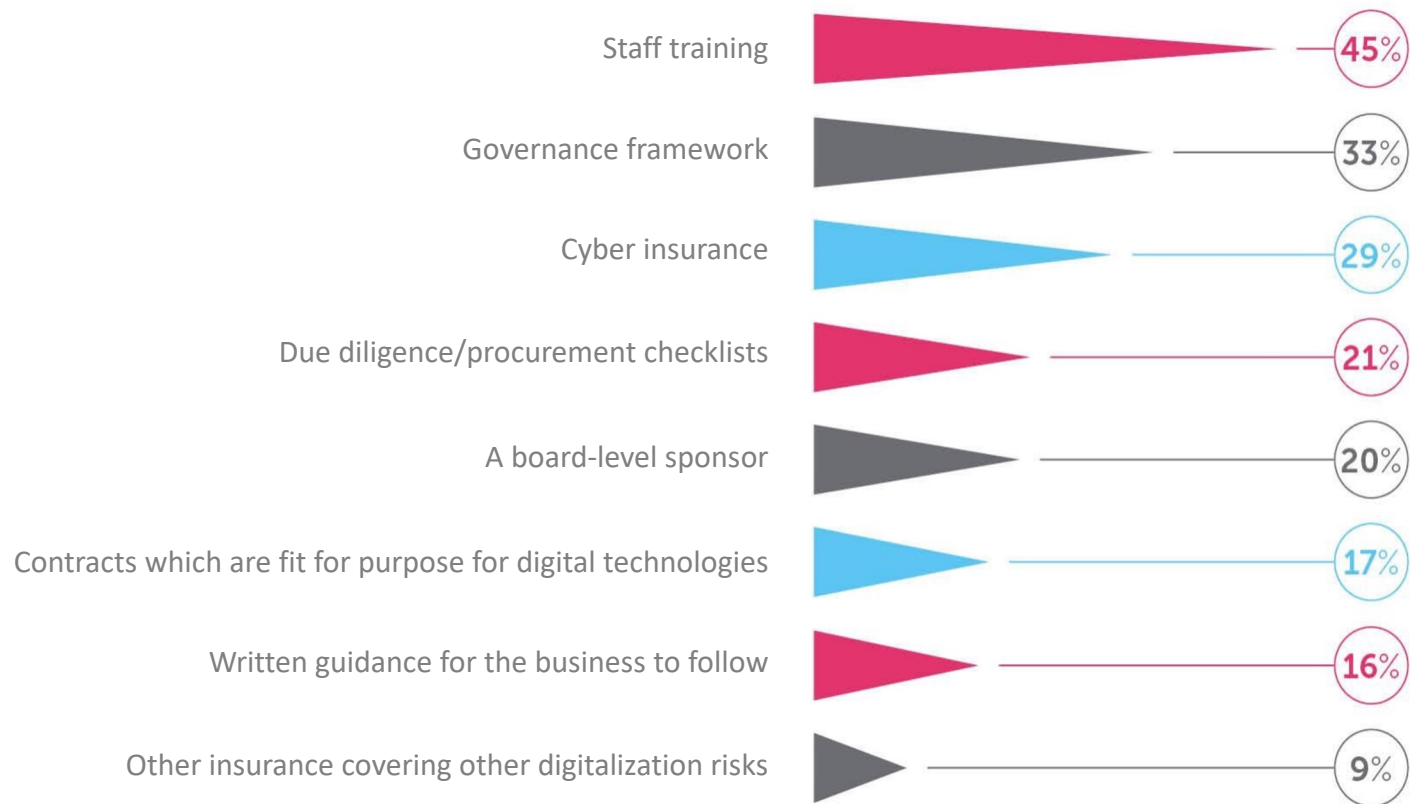
**Percentages of businesses that are significantly concerned that a risk-averse approach to product safety may lead to uncompetitive products**



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# **From intent to action: Corporate digital responsibility**

# What businesses currently have in place to deal with corporate digital responsibility obligations



## Board or senior leadership oversight is crucial, but often lacking

- ❑ A significant majority of respondents (59%) recognize that CDR is a board-level issue
- ❑ Only 20% of our respondents have a board-level sponsor or advocate for their CDR strategy
- ❑ Just 11% of our respondents that use AI or ML have a board member responsible
- ❑ Just 21% use due diligence or procurement checklists tailored to CDR when they procure digital technologies or acquire technology businesses

## CDR recommendations

1. Build a strategy that works for the present but is also adequately forward-looking
2. Base your CDR strategy on a understanding of the full spectrum of current and emerging strategic, legal, corporate, regulatory, sectoral, ethical and ESG risks and responsibilities that accompany digitalization
3. Understand what technologies the business is developing, selling, licensing or using or intending to use, as well as where, for what purpose and what the implications will be
4. Put data and rights to use at the heart of the strategy

## CDR recommendations

5. Consider and address upfront the implications for and impacts on people/staff
6. Address appropriate oversight and governance obligations, whether by industry or by virtue of jurisdictional differences
7. Review your contract templates and playbooks to ensure they are fit for purpose, both on the sales and the procurement side, and audit
8. Build a strategy across the markets in which you operate or intend to operate, not just one focused on the country where your company is headquartered



## Employment

# Digitalization, CDR and Employment

- Implementation – employee representatives
- Skill shortage and training
- Discrimination and bias
- Change to work type/allocation and redundancy



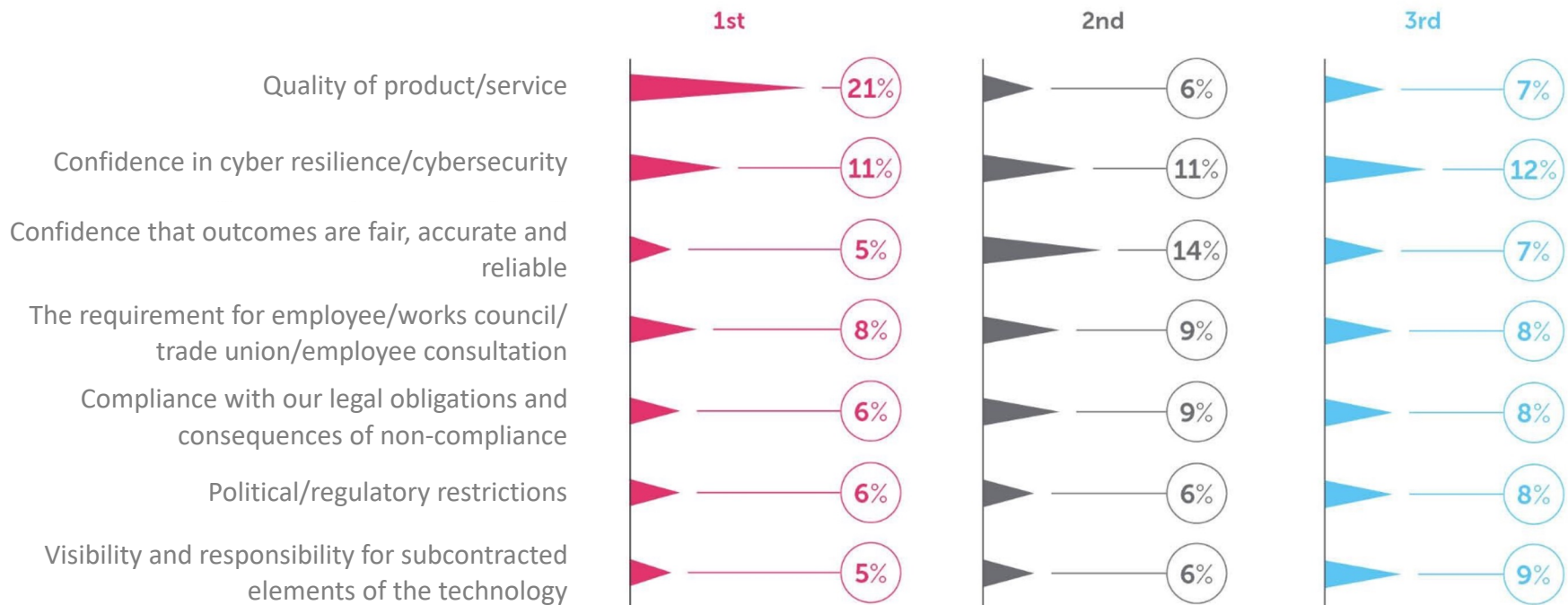
# Digitalization, CDR and Employment

- Establish business case for new or updated technology, scope of how it can and will be used in the workplace
- Understand the employment legal and practical issues by jurisdiction – do not forget to consider consultation obligations with employee representatives, including privacy requirements/local rules around the use of specific technologies
- Devise a consolidated and coordinated global plan and follow a detailed project plan per country for implementation. Do not forget to include CDR considerations, including existence of governance and oversight processes
- Ensure a communications strategy is included in the implementation plan
- Engage early with employee representatives to properly explain the purpose and impact of new technologies
- Consider skill gaps raised through implementation/use of new technology – put in place effective training and identify recruitment needs
- Ensure processes are in place to review ongoing responsible, ethical, sustainable and well-governed use of the technology deployed – throughout the lifecycle of the technology – dovetail with the organization's values
- Ensure processes to monitor changes in law regarding use and implementation of the businesses' chosen technology portfolio

# CDR and M&A

**When considering digitalization-focused technology company targets to acquire, invest in, or form a strategic partnership with in the next two years, which of the following digital technologies are you looking for the company to offer?**

# How important are each of the following factors in evaluating whether to move forward with a target company, investment or partner?





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