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# The Year Ahead Global Disputes Forecast 2024

## **Foreword**

Welcome to the seventh annual edition of The Year Ahead. As always, this report sets out our predictions for the world of disputes for the next 12 months.

Our analysis is based on survey data from 600 senior disputes lawyers at large corporations across four continents.

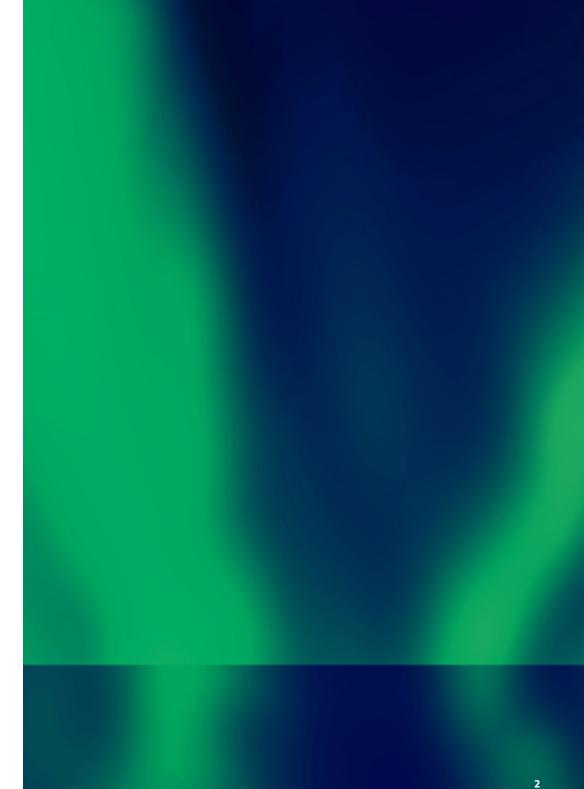
In addition, we incorporate the views of our clients. Our client listening program collates sentiment from nearly 700 contact points, including relationship reviews and matter debriefs.

Finally, we draw upon our own network of lawyers, comprising over 1,000 practitioners across 74 offices.

The trends we have outlined in this report draw upon all of these sources, and reflect both legal changes and the changes in the world around us. No forecast is perfect, but we hope this analysis will help you in The Year Ahead.



**Claudia Benavides**Global Chair,
Dispute Resolution



# **Summary**

- Against a backdrop of economic stagnation and geopolitical conflict, the majority of our survey respondents expect to see the number of disputes in 2024 stay the same or increase.
- Respondents cite ESG disputes as the top litigation risk to their organizations in 2024 (up from second place in 2023). The breadth of ESG disputes is a growing challenge, as human rights and social issues are increasingly incorporated into the ESG agenda.
- Concerns about employment disputes are also significantly higher for 2024, with economic pressures forcing many organizations to restructure, growing pressure from unions, and expanding equal pay and pay transparency legislation.
- Despite the risks, organizations still feel unprepared for litigation. Only 16% of respondents were fully confident or very confident in their organization's level of preparedness for litigation.

- An overwhelming majority of respondents (94%) said they were concerned about an internal or external **investigation** in 2024.
   Cybersecurity and data privacy were the top concerns, reflecting stricter and proliferating requirements on organizations to notify breaches to regulators.
- Artificial intelligence will improve the way disputes lawyers work, and will also drive disputes. In 2024, use of Al is likely to become more common in research and drafting tasks. New methods of document review are not far behind.
- Corporate counsel are heavily focused on new and emerging issues such as ESG. This reflects the modern nature of their role, with attention given to wider business objectives and reputational risk. However, they should not lose sight of core, traditional legal risks.

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# The big picture

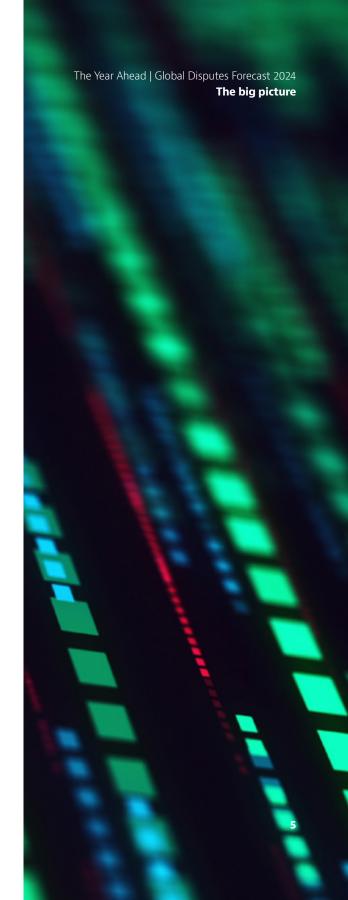
## **Economic, political and social trends**

The past year has been characterized by **economic stagnation and geopolitical conflict**. Sadly, these trends look likely to continue. The OECD forecasts global growth to slow to 2.7% in 2024, well below the historical average, as policy tightening starts to bite. The conflict in Ukraine is developing into a war of attrition, and conflicts in other parts of the world are on the rise.

Our clients frequently report the adverse impact of challenging macroeconomic conditions on their businesses. There is a focus on **reducing costs**. Inflation, foreign exchange

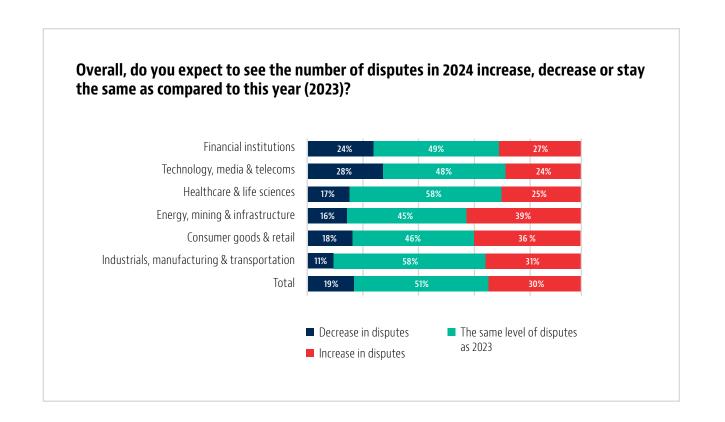
issues and increased competition also bring uncertainty. Many corporate transactions have been postponed due to the poor economic climate, with some clients now focusing on restructuring opportunities.

Despite these headwinds, there are some positives. Most developed countries have **not tipped into recession**, as was forecast last year. Social and technological change offers hope: 2023 was a breakout year for **generative AI**, with McKinsey forecasting gen AI features to add up to USD 4.4 trillion annually to the global economy.



In our survey, we asked respondents whether they expected the **number of disputes** in 2024 to increase, decrease or stay the same. The results are mildly pessimistic: 30% expect an increase, about half (51%) expect things to stay the same, and only 19% expect a decrease.

This was a consistent view across all geographic locations, but results varied significantly by industry. The energy, mining and infrastructure sector showed the greatest balance toward future increases.

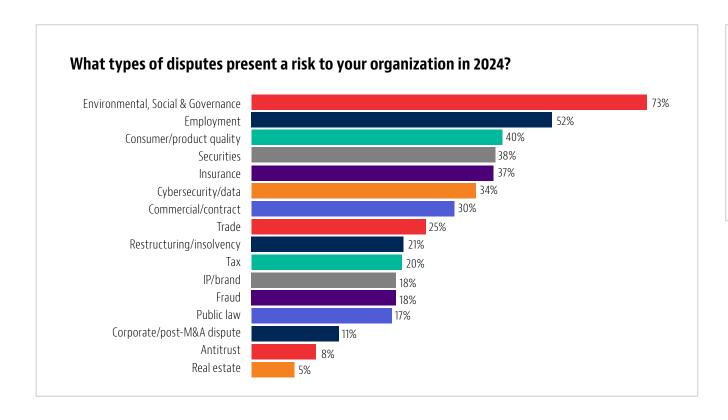


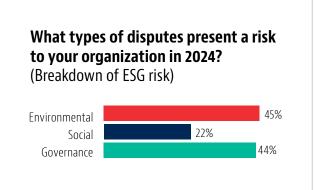
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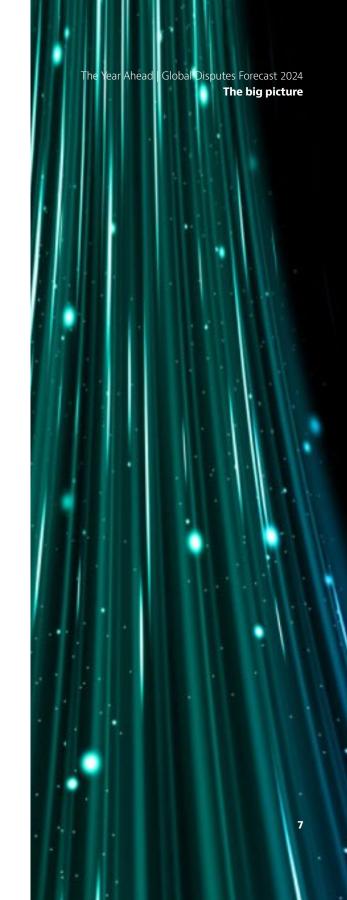
The big picture

We also asked what **types of disputes** presented a risk to respondents' organizations in 2024. **ESG** took the top spot, having continued its rise up the table for the past three years. **Employment disputes** now feature second in the global table, also a significant increase from previous years.

We explore the reasons for these trends in the following sections. Behind these two are a tight pack, including disputes around consumer/product quality, securities, insurance and cybersecurity/data. Last year, we highlighted that organizations' concerns over ESG disputes were changing, and that while environmental issues remained important, more attention was being paid to other types of risk. This trend has continued, with almost double the number of respondents highlighting "social disputes" as a concern from last year.



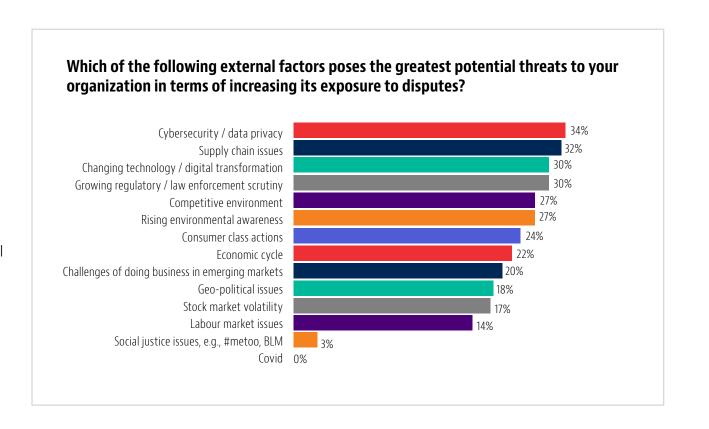




## **External factors posing disputes threats**

We asked respondents about the **external factors** posing the greatest disputes threats to their organizations. Two years ago, the top response by far was "Covid." Last year, the clear top response was "economic cycle." This year, there is a less definitive standout threat. Covid threats have receded and while the economic outlook is poor, the worst predictions of 12 months ago have not materialized.

This year's top external threat is **cybersecurity** and data privacy, followed closely by a group of concerns including supply chain issues, digital transformation, and growing regulatory and law enforcement scrutiny. The top threat varies by region (regulatory scrutiny in Singapore; digital transformation in the US) and by industry (as we explain below).



## **Litigation preparedness**

Our survey shows that despite the risks, organizations still feel **unprepared** for litigation. Only 16% of respondents were fully confident or very confident in their organization's level of preparedness for litigation.

The largest organizations felt a little more confident than the smaller ones: the figure was 25% for companies with turnover of more than USD 25 billion, but just 10% for those with turnover of less than USD 1 billion. The lowest-scoring sector was industrials, manufacturing and transportation, where just

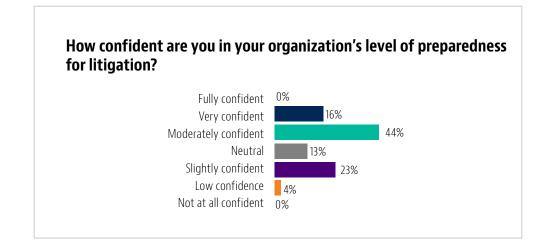
14% of respondents felt fully or very confident. Financial institutions polled highest, with 20% feeling fully or very confident. Out of 600 individuals polled overall, just two people claimed to be "fully confident."

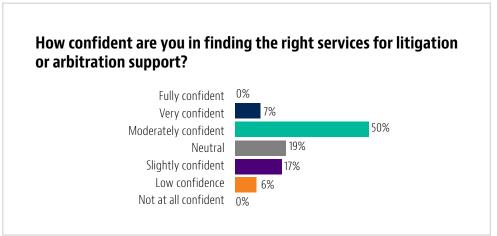
Organizations also lack confidence in finding the right services for litigation and arbitration support. These services typically include document review, legal project management, translation and transcription. Only 7% were fully or very confident on this topic. Our <u>Litigation Intelligence Tool</u> will help you assess your preparedness compared to others in your industry and identify opportunities to strengthen your approach.



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The big picture





## **Class actions**

Around three-quarters (74%) of organizations report class actions as a concern for 2024. Many **governments are under pressure** to provide practical means for bringing mass claims, especially in consumer cases. While some jurisdictions have had a liberal class actions regime for decades, such as in the US and Australia, in other places the mechanisms are still developing. This includes most of the EU, where states are legislating to introduce the Representative Actions Directive.

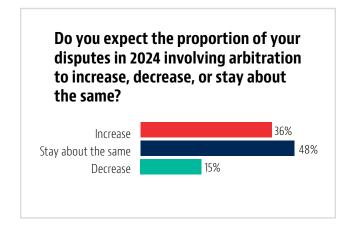
In the coming year, we will see **increasing class actions** risk through a wider range of jurisdictions where class actions may be launched, combined with liberalization and development of the litigation funding market. We will also see increased forum shopping and, over time, international efforts to regulate this market.

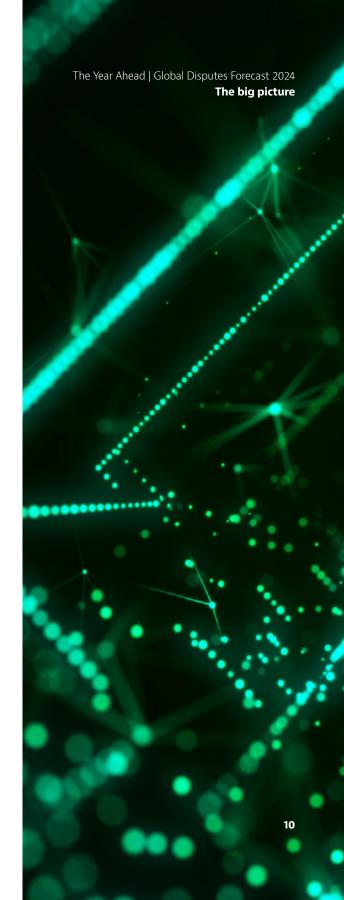
## **Arbitration**

For the first time this year we also asked respondents for specific forecasts about arbitration. The results show a slight balance toward **more arbitration**: 36% of respondents expect the proportion of their disputes involving arbitration to increase, compared with just 15% who expect it to decrease, and 48% who expect it to remain the same. This is a broad trend across all regions and industries.

This is perhaps a surprising result. The number of arbitration proceedings worldwide is actually falling slightly, as Baker McKenzie has <u>previously reported</u>. However, there are some possible explanations. In our experience – and in our survey data – we see larger organizations use arbitration more frequently than smaller ones. As companies grow, they may expect to diversify their dispute resolution methods. We are also seeing

increasing geopolitical risk. This inevitably involves risks to investments, where arbitration can sometimes provide a solution.



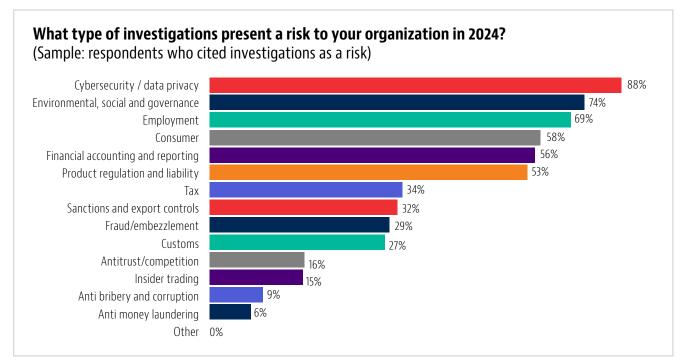


## Investigations

An overwhelming majority of respondents (94%) said they were concerned about an internal or external **investigation** in 2024. This pattern was consistent across all geographic locations and industries, although technology, media and telecommunications organizations ranked highest on both counts.

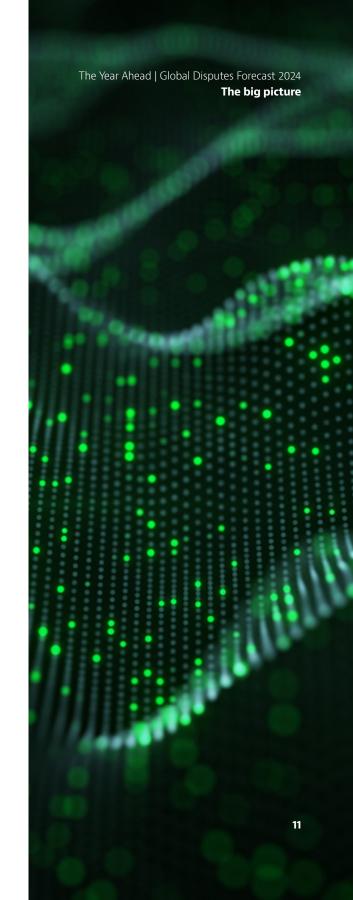


We also asked what types of investigations presented a risk. Although the traditional risk areas appeared in responses – such as fraud, bribery and corruption, money laundering and sanctions – organizations appeared most concerned about **current** and emerging investigations triggers such as ESG, cybersecurity and data privacy, and employment issues.



This finding may seem counterintuitive. Conventional risk areas such as bribery present the greatest chance of enforcement action and attract some of the highest fines. However, organizations may feel that the greatest risks lie in areas of law such as cybersecurity and ESG where the rules are still developing, internal systems and controls are less established, and operational and reputational damage can be significant.

It also illustrates a wider trend in this report. Most modern corporate counsel are now true business partners, balancing not just legal risk but also operational and reputational concerns. This is a welcome evolution in the role, and it makes sense: market integrity is critical. However, corporate counsel need to make sure these new concerns do not distract them from **core legal risks**.



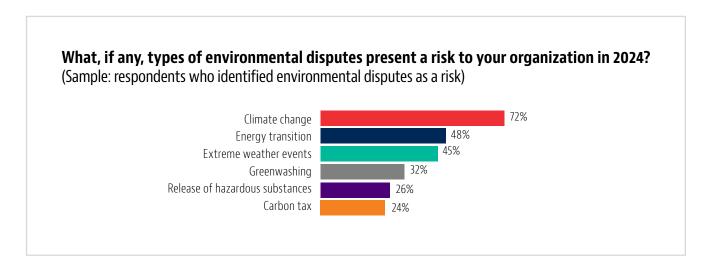
# **Key issues**

## **Environmental, social and governance disputes**

Nearly three-quarters (73%) of organizations say that ESG disputes will be a risk to them in 2024. Recent years have seen a flourishing of ESG laws and regulations, many with extraterritorial effect. Disputes can involve tricky issues of causation, significant reputational risks, and difficulties with remedies: money doesn't always solve the problem. For many in-house lawyers, this puts ESG disputes at the top of the agenda.

Our clients tell us that they find it difficult to navigate and understand the **regulations** and **reporting obligations**. Specific sectors have specific challenges. Major concerns include sustainable energy (especially related to R&D), sustainable finance and supply chain compliance. And while there is some resistance to the wave of regulation – at least 19 US states have proposed "anti-woke" legislation – the tide of change largely flows one way.

**Environmental disputes** continue to evolve. Our survey asked what types of environmental disputes presented the most risk in 2024. Climate change litigation was the top response.



There are currently over 2,000 active climate change cases around the world, with several important decisions expected next year. Claimants are also seeking advisory opinions from international courts, including the International Court of Justice. According to analysis by the London School of Economics, the growth rate in cases appears to be slowing but diversity in cases is still expanding. NGOs are becoming increasingly creative with their arguments, leveraging

constitutional law, company law, human rights and even antitrust laws (e.g., corporations that evade ESG obligations obtain an unfair competitive advantage).

**Climate science** is also rapidly developing, claiming to be better able to attribute specific actors or actions to specific damage (e.g., the exact temperature impact of one multinational to global warming over a specific time period).

The Year Ahead | Global Disputes Forecast 202 **Key issue** 

A wider range of organizations now find themselves targeted by this litigation – for example in the financial industry – and a wider range of claimants are bringing it, including governments in developing countries and small island states. A larger number of jurisdictions are now home to claims, with China and Germany being current hotspots.

Climate litigation is likely to evolve as claimants turn their attention beyond greenhouse gas emissions to environmental issues more broadly. Litigation will increasingly encompass **biodiversity loss**, as claims attempt to rely upon the climate-biodiversity nexus.

Activists believe that this litigation **affects corporate behavior**, even if claims do not succeed. It can also have a wider political impact. The current wave of climate litigation was cited in COP27 negotiations as a reason for establishing a damages fund for developing countries. For these reasons, the trend looks set to continue.

**Governance disputes** involve conflicts related to the management and decision-making processes within an organization. This might include disputes over adherence to ethical and sustainable practices, or governance

standards. **Social disputes** revolve around a company's impact on society and treatment of stakeholders. Examples include issues related to employment practices, diversity and inclusion, community relations and human rights violations.

As we outlined in our introduction, there is greater importance placed on social and governance disputes. In part this may reflect the increasing incorporation of **human rights** into the ESG agenda. For example, the UN Sustainable Development Goals, which were only introduced in 2015, are now being litigated

Our survey showed that almost twice as many respondents identified social disputes as a concern for 2024 (22%) than last year (12%). This may be related to a similar increase in employment litigation concerns this year.

Treatment of workers is a major issue and will continue to be so. Organizations also continue to face dilemmas over whether and how to participate in high-profile social and political movements.

Recent calls for lawyers to act as "ethical gatekeepers" present a new threat for organizations defending ESG litigation, risking

the erosion of their **right to representation**. In 2023, the International Bar Association proposed amendments to its Principles on Conduct, questioning "whether a lawyer's ethical behavior should be shaped purely by conformity to the interests of their client." The proposal was withdrawn following criticism. Similar proposals have been made by national legal bodies, including the Law Society of England and Wales.

Lawyers are also under **political pressure** to avoid acting for certain clients. Mexican President Andrés Manuel López Obrador has accused lawyers of "treason" for acting for energy firms and other companies, prompting a vigorous defense from the Mexican bar.

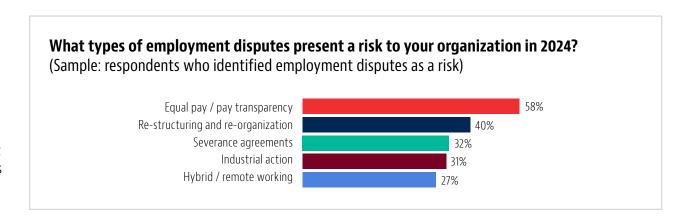
Baker McKenzie is a participant of the <u>UN Global Compact</u>. Read more about our <u>sustainability initiatives</u> and our commitment to <u>inclusion</u>, <u>diversity and equity</u>.

## **Employment disputes**

The heightened focus on ESG, proliferating legislation around worker pay, continued economic uncertainty and increasingly active unions are all key factors fueling an increase in litigation risk for employers in 2024.

Equal pay and pay transparency-related claims will continue to be a significant concern; new legislative requirements require employers across the globe to comply with measures such as pre-employment pay transparency and workforce pay reporting obligations. Employers with operations in Europe will already be seeing the impact of the EU Pay Transparency Directive – which must be implemented by EU member states by June 2026 – as it raises the profile of equal pay and pay transparency rights, and becomes a focus for trade unions and works councils.

In the US, Washington state saw the first test cases of proposed class actions against large employers alleging that companies failed to advertise the pay ranges and



benefits required under state law. With robust new pay transparency legislation in other states and cities across the US and Canada, and more on the horizon, employers in the region could face a significant litigation threat. In Latin America, employers in Brazil have new biannual pay transparency reporting obligations and significantly increased fines for breaching anti-discrimination laws, creating exposure to new risks.

## **Global restructuring and reorganizations** remain a complex and potentially contentious

area for employers. The wide range of varying local requirements around employee transfers, notification, termination and other requirements, as well as variations in protected employee status, can present significant risk. Even implementing cost-cutting measures that stop short of terminating employment (including recruitment freezes) can make employers vulnerable to claims.



In Asia Pacific, expect continued challenges to redundancy terminations, as well as claims for severance and unfair dismissal/wrongful termination. Particular attention is required in jurisdictions such as Japan, mainland China and Indonesia where unilateral termination of employment by employers is difficult. In the US, a recent decision of the National Labor Relations Board (NLRB) prohibits employers from "tendering" to employees separation or severance agreements that require employees broadly to waive their rights; the ruling could go so far as to discourage some companies from offering severance packages altogether.

Meanwhile, lawmakers worldwide are turning their attention to **unions and labor relations**, focusing efforts on strengthening worker protections. With ongoing economic uncertainty and the increased focus on corporate transparency and social responsibility, the risk of union and labor disputes remains high for employers. In the EU, proposals to strengthen information and consultation rights of European Works Councils and introduce enhanced measures to address non-compliance create potential

risk for employers with EWCs. In the UK, trade union legislation could see a dramatic overhaul, giving more powers to unions, depending on the outcome of the anticipated general election.

In Asia Pacific, trade union activity is increasing. Malaysia is anticipating amendments to trade union law that will allow for greater recognition of trade unions, while employers in Singapore are seeing unions becoming more persistent and demanding.

In the US, we expect to continue seeing more claims against employers for unfair labor practices and violation of employees' rights. This is largely due to the NLRB adopting more employee-friendly policies and encouraging both unionization and concerted employee action, impacting working conditions. The potential for increased union activity and subsequent disruption to operations is also a particular concern for Canadian employers. Meanwhile, in Latin America, the union landscape continues to shift. Brazil's Supreme Court recently ruled that union involvement in the process of

collective terminations is essential, while Chile is expecting new regulation in relation to unions under its new constitution.

The increased use of AI in the employment life cycle together with regulatory scrutiny and existing legislation gives rise to risks for employers around bias, discrimination, misuse of AI, data privacy and automated decision-making. While specific risks under the EU's AI Act are unlikely to crystalize in 2024, this will continue to raise the profile of AI and related concerns.

Explore how businesses can responsibly address evolving Al risk in the context of recruitment in our article Responsible Al and the War for Talent.





The US has seen a wave of proposed and enacted legislation in relation to the use of fully automated decision-making tools to screen job candidates or make other employment decisions that impact compensation, performance evaluations and other terms of employment. In addition, a ruling in the California Supreme Court means that certain third-party vendors providing Aldriven human resources tools could be directly liable for employment discrimination under the state's discrimination statute, ahead of pending regulation in this area.

Other risks for employers in 2024 include **worker misclassification**, which continues to be scrutinized by both legislators and courts across Europe, North America and Asia

Pacific, presenting risks in relation to tax, employment, benefits and pension rights. Increased employee mobility also presents significant issues, most notably in relation to tax liability, while **restrictive covenants and non-competes** will continue to be a contentious area in 2024. For example, in Asia Pacific, changes in the employment and labor market and competition for talent are leading to an increasing trend of employers considering aggressive enforcement of restrictive covenants, especially against employees at senior levels.

Baker McKenzie's Contingent Worker Misclassification Tool provides high-level information about pensions, wage tax, employment law and employee benefits risks of engaging contingent workers across 29 jurisdictions

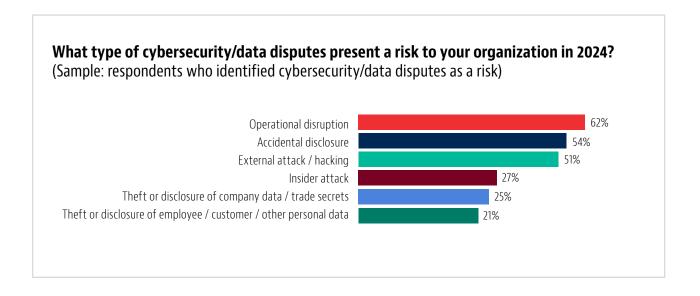


## **Cybersecurity and data disputes**

Cybersecurity and data disputes were a little lower down the list of respondent concerns this year but still feature at the top for **investigations**. We attribute this to stricter and proliferating requirements on organizations to notify regulators of breaches.

In particular, a wider range of organizations and industry sectors worldwide are being deemed providers of "critical infrastructure," and facing a greater range of obligations to defend against cyberattacks, increase operational resilience and report breaches. When we asked what types of cybersecurity and data disputes presented a risk, the top answer was operational disruption.

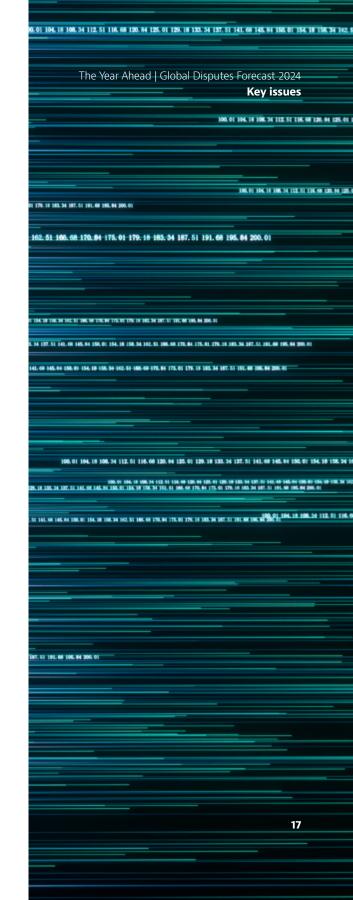
As supply chain cyberattacks become increasingly prevalent, the risk of **operational disruption** will only grow, as these attacks can be devastating for service providers. The operational risks are compounded by the potential for contractual disputes and litigation for B2B providers, when attacks impact the operations of their customers and clients.



As always, the **technical backdrop** is fast moving. There are additional tools of defense, such as the increasing normalization of multi-factor authentication (MFA). However, in 2023 we have seen several attacks where MFA was bypassed through use of social engineering. Expanding areas such as cloud computing and the internet of

things also offer increased opportunities to cyber criminals. Generative AI has entered both sides of the battle, with potential use in both launching and detecting attacks.

This situation is complicated by an ongoing **skills crisis**. Cybersecurity Ventures, a research company, predicts 3.5 million unfilled



cybersecurity positions worldwide by 2025. The **legal backdrop** is also rapidly evolving. The US is working toward harmonization of various new cybersecurity proposals, taskforces and legislative efforts at both state and federal level, although no uniform federal regulation on cybersecurity is expected soon. China has recently consulted on a draft cybersecurity national standard. EU member states have until October 2024 to implement the NIS2 Directive, aiming for a high common level of cybersecurity.

Manufacturers face specific requirements. Both the UK and the EU are legislating to introduce minimum security requirements for networked products, with the UK law coming into force in April 2024, and the EU law the following year. In the US, the Cybersecurity and Infrastructure Security Agency has imposed new reporting requirements on 16 critical infrastructure sectors, including manufacturing, with specific obligations for ransomware events.

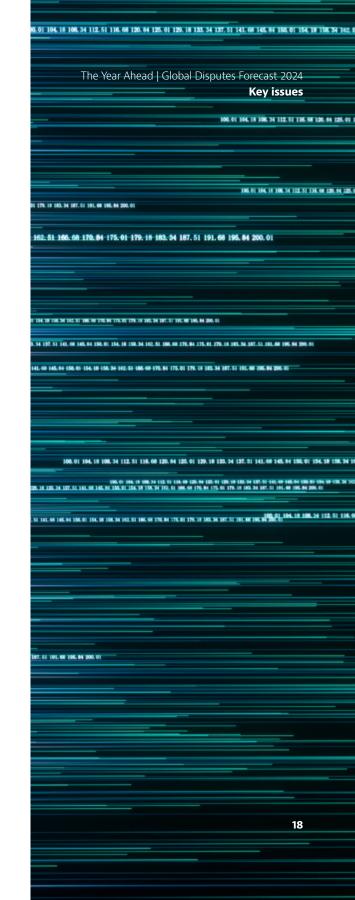
In terms of **data protection**, the EU GDPR triggered a wave of similar legislation around the world that is still developing. Gartner estimates that 75% of the world's population has its personal data covered under modern privacy regulations. The gaps are rapidly being filled, for example in Indonesia, whose first personal data protection law will take effect in October 2024.

More mature regimes are making **changes to existing data privacy rules** to align with common global practices, including provisions around breach notification and the appointment of data privacy officers. All of these developments provide further bases for litigation. Data breach class actions are booming in the US, with the healthcare sector particularly affected. And although mass data claims are less frequent in the EU, the market is catching up, driven by procedural reform, litigious consumer groups, and third-party funding.

We foresee a continuing heavy **crossover between regulation and litigation** related
to cyber risk. A key example of this is the US
SEC's recent lawsuit against a US software
company and its CISO for alleged failure to
disclose known vulnerabilities and attacks.
In particular, we see an increased emphasis –
in the SEC's action and in recent regulatory
developments – on governance of cyber risk
within an organization. Companies need to
ensure that their leadership are engaged in the
management of these issues.

For more information on these issues, access our newly updated <u>Global</u>
Data Privacy and Security Handbook.





## Tax disputes

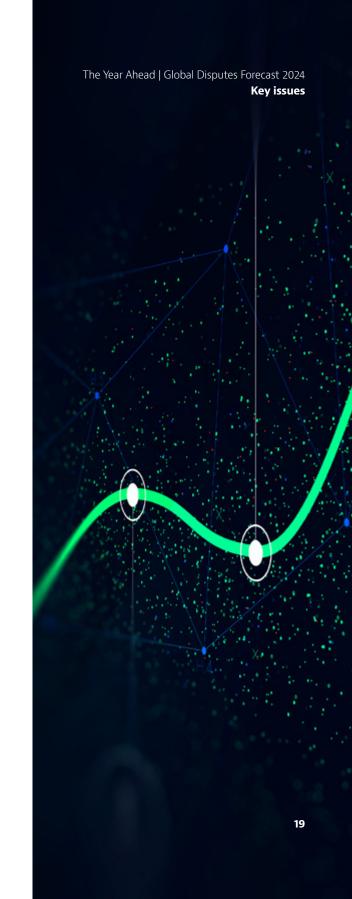
For the second year running, 20% of our survey respondents expect tax to be a significant risk. We continue to see year-on-year increases in the **number**, **value** and **sophistication** of tax disputes and audits. Geopolitical, economic and tax policy changes, coupled with increasing transparency and disclosure requirements, heap pressure on tax resources within organizations to respond to a spectrum of wide-reaching and complex tax issues.

Many countries, including the US, have provided additional funding to tax authorities to bolster compliance by multinationals by targeting **investments in data analysis**, **artificial intelligence and machine learning** to identify issues and risk-assess taxpayers. This rapid adoption of technology provides increased visibility into companies' operations, requiring better data management and real-time transaction capability for taxpayers. However, even with enhanced investment, questions remain whether tax authorities have the resources and technology to process the explosion of data that is resulting from



digitalization and the myriad of voluntary and mandatory disclosure requirements, how this automated information will be considered in terms of burden of proof and the ability of taxpayers to challenge it effectively, or whether the time to resolve disputes will continue to grow.

Tax disputes relating to the **mobility of employees** topped our list of risks across
all regions in the continued absence of
announced guidance by both the OECD and
the European Commission. Remote work can
enhance the attractiveness of an employer,
improving recruitment and retention of talent;



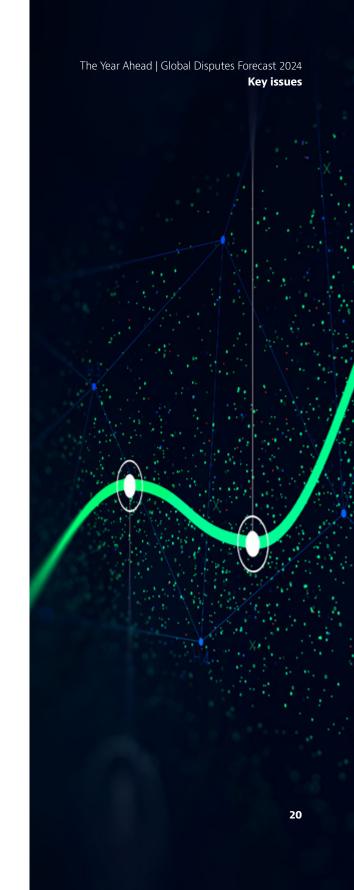
however, it is also a gateway into an intricate maze of tax rules for both individuals and corporate entities.

Rising interest rates and inflationary pressures exacerbate transfer pricing and value chain **issues**, typically a top audit issue for many multinational companies already affected by the diverse geopolitical issues the world is facing. While efforts by the OECD through the EU Transfer Pricing Directive and the International Compliance Assurance Program may help alleviate some of the burden placed on companies in certain disputes, transfer pricing is expected to continue to be a focus of tax authorities. Advance pricing agreements (APAs) and mutual agreement procedure (MAP) enhanced with arbitration will be critical means through which to manage and resolve these issues.

Other significant changes in **international** tax policy are expected to be a major source of future disputes. The OECD's Pillar Two agreement aims to ensure that large multinationals pay a minimum effective tax rate of 15% in every jurisdiction where they operate. Globally, domestic tax regimes are being rapidly overhauled to comply with the model rules, including the redesign of complex features such as tax incentives, with many jurisdictions introducing legislation from the beginning of 2024. While the OECD rules, commentary and guidance are intended to ensure coordination and greater certainty in the application of the rules across jurisdictions, there is a significant risk that differences will result in how the rules are drafted, interpreted and applied.

Indirect and industry taxes are heavily linked to global trade and supply chain activities that continue to encounter significant disruption due to geopolitical events. Additionally, escalating budget pressures lead governments to focus on the enforcement of existing and new indirect taxes such as VAT, GST and environmental and sectoral taxes in order to meet revenue needs.

**ESG considerations** continue to be prevalent in the management and resolution of tax disputes, as private settlement may be deemed preferable to public litigation in order to avoid negative attention, even if this may result in a more significant adjustment. As a result, advance tax rulings and negotiated settlements will continue to gain relevance in dispute resolution.



## Post-M&A disputes

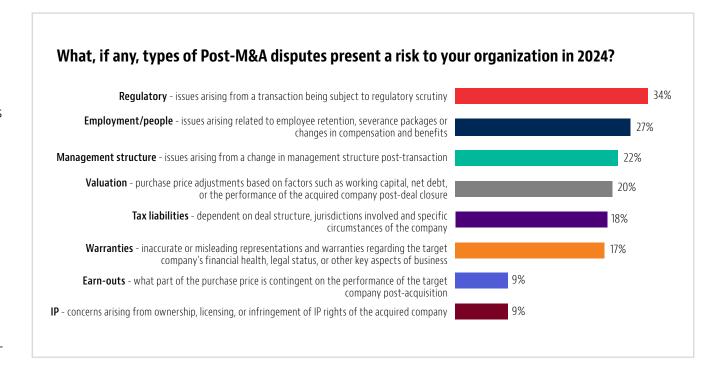
Global M&A volumes have been subdued since the 2021 peak, affected by the weak economic outlook and geopolitical instability. We continue to see disputes arise as deals made in haste during the boom **fail to deliver** against expectations. Common areas of dispute include purchase price adjustments, representations and warranties, indemnities, pre-contractual disclosure and post-closing cooperation.

We asked respondents what types of post-M&A disputes presented the greatest risk to their organization in 2024. The top answer was **regulatory disputes**. Firms can struggle to navigate the complex regulatory landscape to ensure M&A deals are successful, especially with the rise of merger controls. Buyers also fear "buying an investigation" through failure to discover regulatory or law enforcement issues in due diligence.

Other key concerns include **employment-related issues** – a consistent theme of this year's report – and disputes around changes in management structure, likely high on the agenda given increased levels of restructuring-driven M&A.

None of these top responses will necessarily comprise disputes between the contracting parties. However, the **conventional range of inter-party disputes** still feature on the list, including disputes around valuation, tax, warranties and earn-outs. Purchase price

disputes featured relatively highly. M&A surveys from the US and Europe point to an uptick in the inclusion of purchase price adjustments in 2021-2022, which may now be emerging in disputes.

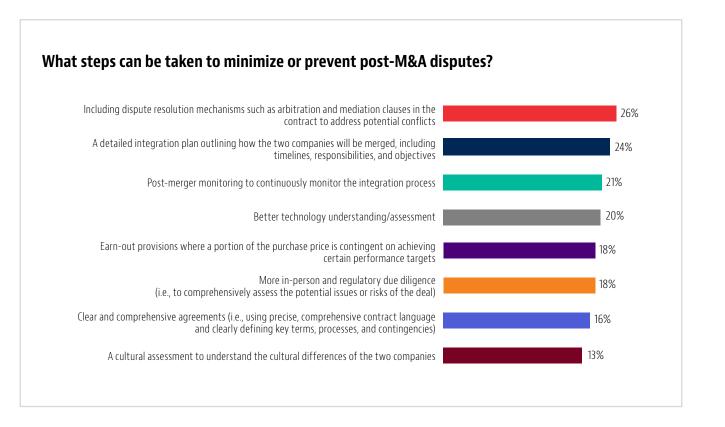




Overall, the results reflect the pattern we see elsewhere in this report. Corporate counsel are focused on a wide range of issues that may affect their organization, measuring operational disruption or reputational risk alongside traditional legal risk. While this is a welcome development, the **commonplace post-M&A disputes** between buyer and seller have not gone away and remain a hazard of deal-making, albeit one that can be minimized.

We asked what steps organizations can take to **minimize or prevent** post-M&A disputes. The top response was to include dispute resolution mechanisms such as arbitration and mediation clauses in the contract to address potential conflicts. While this may seem obvious, well-drafted dispute resolution clauses, which are tailored to the deal and parties, can prevent disputes from escalating.

Respondents also pointed to the importance of detailed integration plans and post-merger monitoring, which in practice should go hand in hand. Greater focus on monitoring should lead to identification of issues during the post-deal phase that could give rise to claims, allowing them to be managed appropriately.



Baker McKenzie's <u>Disputes Clause Finder</u> provides users with individually tailored choice-of-court or arbitration clauses in just a few steps





## **Antitrust disputes**

Antitrust disputes remain a global litigation risk factor, with continued increase in activity anticipated across all jurisdictions in 2024.

There has been no slowing down in the pace of **antitrust class actions** in the US and Canada, and collective litigation is now also prevalent elsewhere. Opt-out class claims are already available for all or some types of claims in the US, Canada, the UK, Australia, Israel, the Netherlands, Portugal and Belgium. Claimant firms, funders and litigious consumer associations are also active across these jurisdictions. Large damages awards and settlements are being made.

This demands **coordination and a global strategy** for litigating claims relying on similar facts across jurisdictions – where organizations are required to engage in litigation proceeding at different speeds and where determination of an issue or settlement in one place could have strategic impact in another. Litigation can arise on a standalone basis rather than relying on a regulatory investigation or finding of wrongdoing. But the two often go hand in hand, and so the strategy around regulatory engagement should mesh with the litigation

strategy, taking account of how some of the decisions made in the course of an investigation might impact litigation risk.

We also expect to see companies continue to use competition law against each other to achieve **commercial goals** – with litigation going far beyond collecting damages resulting from a price-fixing cartel and extending into: securing access to platforms and distribution networks; forcing supply of essential services, data products or activities on "fair, reasonable and non-discriminatory" terms; bringing an end to unlawful information sharing; or acts liable to amount to abuse of a dominant position, like margin squeeze or predatory pricing. We also now see an increase in pressure around the concepts of unfair competition or commercial practices, with efforts to expand the categories of behavior subject to those concepts through litigation, so that companies held liable for infringing conduct will be ordered to cease the behavior and to pay damages.

All industry sectors are at risk of claims grounded in antitrust, but there has been particular activity in 2023 in: technology, media and telecommunications; industrials, manufacturing and transportation; and consumer goods and retail. It is expected that these sectors will remain **priority targets** for claimant firms and funders in 2024 with a focus on targets deemed to have "big pockets" and potential liability for high-value claims.

An area where particular developments are expected in 2024 is the **intersection of antitrust** with other areas – including consumer law, supply chain and data privacy. Regulators have been grappling with the crossover between these areas for some time, and it is beginning to be tested through the way claimants articulate their grounds of claim and plead their position. So, matters that might be viewed by a layperson as matters of consumer law (e.g., alleged misrepresentation of a product or service) or data privacy law (e.g., the terms on which a consumer understands their data will be used by a platform operator) are framed as engaging antitrust law because they raise the possibility of abuse of dominance or an unfair commercial practice. Courts in several jurisdictions are expected to determine whether these claims can be permitted to proceed as proper causes of action or if they should be rejected and repleaded.



## **Artificial intelligence**

Al had a breakout year in 2023, and it is now clear that its impact will be felt across all industries, especially law. Goldman Sachs estimates that 44% of all legal tasks could be performed by Al, more than any other professional occupation. Litigators must consider not only how these tools can improve the way we work but also what disputes may arise from the use of Al

In 2024, use of AI is likely to become more common in **research and drafting tasks**. New methods of document review are not far behind. But it may be some time before more sophisticated uses pass the scrutiny of regulators and risk-conscious lawyers.

Despite the potential benefits of AI, some of the concerns are now familiar. The issue of **hallucinations** has led at least four US courts to require litigants to certify that no AI has been used in filings. The Canadian province of Manitoba issued a similar practice direction. However, these concerns are largely solvable. The latest "grounded" AI systems add a layer of verification – by reference to trusted data sources – on top of the model's linguistic prediction. New legal AIs are emerging with large language models plugged into reputable legal research databases, with more reliable results, and citations.

#### Potential uses of AI in disputes

- **Research.** Integration of AI into research tools will allow natural language questions rather than use of search terms and lead to faster, better results.
- **Analysis.** For example, comparing two sets of pleadings to identify the points of dispute; identifying the evidence that supports specific pleaded points; drafting questions for a witness interview based on a specific document set; or reviewing an opponent's evidence to identify inconsistencies and weaknesses.
- **Discovery.** Tools powered by large language models offer the potential for immediate interrogation of a document set by reference to the pleadings, without the need to train the system by coding sample documents.
- **Drafting.** All is moving beyond the ability to draft simple documents such as key people lists and chronologies, to more advanced documents such as letters and pleadings. Drafting tools will be able to produce shorter and more focused text, with the correct tone and emphasis to suit the context.
- **Prediction.** Tools already exist to predict outcomes in certain types of cases. The development of this trend will assist case preparation and particularly settlement. Predictions shared with both parties an automated form of neutral evaluation may become an integrated part of the disputes process. Al should also assist in predicting costs.
- **Decision-making.** We are likely to see small claims outsourced to Al, no doubt with strict transparency and perhaps with rights of appeal to a human. The most obvious early application is high-volume cases with similar fact patterns, such as consumer/ombudsman cases.



#### **Disputes arising from Al**

- Intellectual property and data privacy. Claims have already been filed in the US courts seeking damages for use of copyrighted or personal data to train Al models. Several major tech companies have publicly indemnified all users of their Al products against these claims. There will also be claims around the IP that underpins Al models, and the IP that Al generates.
- **Fraud.** Al both enables fraud for example through use of deepfakes and assists in its detection. But it is likely that the factual context of fraud disputes will begin to change.
- **Ethical disputes.** We are likely to see claims around the improper or undisclosed use of AI, for example in the employment context and in professional negligence. In Colombia we have seen some of the first challenges to judicial decisions relying on AI.
- **Malfunction.** Nascent technology and inexperienced users are likely to lead to situations of mistake and damage, resulting in claims.
- **Categorization.** As with any new technology, it will take some time to establish how Al fits within existing legal frameworks (for example the application of product liability legislation to Al), and this will be tested in the courts.
- **Improved drafting.** Use of AI tools in contract negotiation and drafting may reduce the number of disputes around unclear or ambiguous terms.

There are also **data security** issues. No reputable law firm will upload confidential client information to an untrusted and unverified cloud-based system. This is slowing adoption in the short term but is being rapidly addressed. Operators that get this right – whether legal-focused start-ups or larger tech and research firms – will gain a competitive advantage.

A longer-term problem is **bias.** An Al system is likely to import biases contained in the text on which it is modeled. These may be familiar human biases around race or gender, or more nuanced legal biases. For example, if Al cannot easily be trained on arbitration documents, which are by their nature confidential, will it be biased toward litigation culture? Or toward jurisdictions with existing digital court systems and large data sets, such as China and Austria? Or toward the common law, with its tradition of longer judgments?

Naturally, these concerns have led to **regulation**. The coming year will see continuing debate about how – and critically, when – to regulate. Governments will seek



to strike a balance between protection from harm and nurture of innovation. Major economies around the world are preparing Al legislation, including the US, the EU, China and India. The EU is a notable early mover, with its draft Al Act expected to be passed in 2024. Under the Act, "assistance in legal interpretation and application of the law" is classified as high risk and carries stringent safeguards, although it is currently uncertain what exactly falls within scope.

In the meantime, organizations have to navigate an **existing patchwork of laws** that will catch some aspects of Al use. An example is the recent claim brought in the Netherlands on behalf of drivers using ride-sharing apps, based on the GDPR, and alleging violation of drivers' rights through automated decision-making.

Beyond the coming wave of Al law, difficult questions remain. What effect will Al have on the **shape of the legal profession?** How will junior lawyers gain experience if Al completes

the simpler tasks? And will Al be an **equalizer in the legal market**, allowing access to small and medium-size firms, or will the need for large data sources and expensive tech have the opposite effect?

How will **existing laws** work in the context of Al actions? For example, the common law doctrine of mistake relies upon human concepts of intention that make no sense in the context of Al mistakes. Will machines be held to different standards? And will humans ever accept Al intervention in **important and emotive litigation** such as human rights?

Finally, if the legal industry becomes dominated by synthetic, Al-generated content, how will law evolve? What happens when Al begins to feed on itself? This phenomenon – known as **model collapse** – may present a natural limit on our ability to design humans out of the system. This may reassure those who ask the most common question of all: will we still need lawyers?

Read more about Baker McKenzie's involvement in proposed US federal legislation to govern Al.



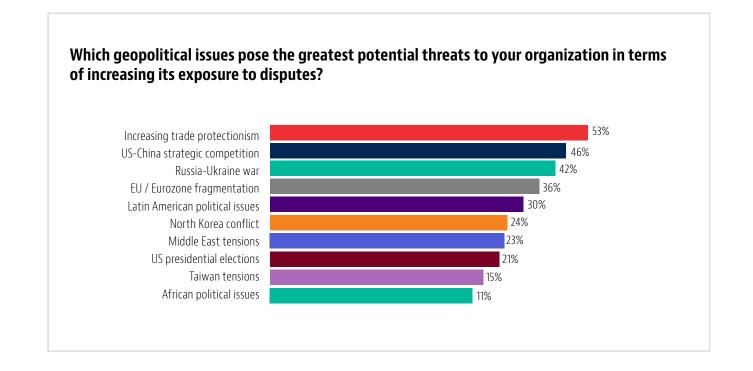
## **Geopolitical risk**

The world currently faces significant **geopolitical uncertainty**. The Geopolitical Risk Index developed by Dario Caldara and Matteo lacoviello at the Federal Reserve Board is currently tracking higher than at any point in the past 20 years, save for

the weeks immediately following Russia's invasion of Ukraine.

There is continued tension between Russia and NATO, instability in the Middle East including war between Israel and Hamas,

and still strained relationships between China and various Western nations including the US. All of this takes place against a backdrop of rising trade protectionism, and the use of export controls, foreign investment rules and sanctions to drive political objectives.



Recent surveys show that political polarization is perceived to be an increasing problem. In 2024, elections are expected in the US, Russia, Taiwan, India, the UK and South Africa, furthering uncertainty.

Our respondents put **trade protectionism** at the top of the list of geopolitical issues presenting exposure to disputes. Concerns around US-China competition and the Russia-Ukraine war also ranked highly. There are a number of important WTO cases to watch in 2024, including Indonesia's challenge to EU steel duties, and a dispute challenging China's alleged unwritten policy to restrict goods imported from Lithuania in response to its restoring of trade relations with Taiwan.

Our clients tell us that **sanctions issues** in particular are becoming harder to navigate, issued with more speed, widening in scope and complexity, and often involving countermeasures and blocking laws. Not only may this trigger enforcement or litigation, but sanctions can cause problems with the enforcement of existing judgments or awards, or with crossborder payment of settlement sums. Sanctions also create arbitration-specific issues such as potential inability to act, or sanctions-related disputes that are not arbitrable.

G20 emerging economies are predicted to see falling rates of economic growth in 2024. This may lead to increased **nationalization risks and investment disputes** as these countries take measures to protect their economic interests.

International conflict can cause disruption to normal business operations, often triggering contract disputes, involving force majeure, material adverse change and related concepts. It may also cause issues with ongoing or future disputes, including around service of process or travel bans on witnesses.

We will continue to see states involved in international conflict passing legislation designed to give domestic entities a competitive advantage in litigation or arbitration. Foreign investors exiting or suspending local operations may encounter litigation including consumer and intellectual property claims, as seen in recent Russian divestments.



# **Industry focus**

## **Consumer goods and retail**

Three-quarters of respondents in this sector are concerned about **consumer and product quality disputes** in the coming year. This may partly reflect expanding regulation around product liability, labeling and consumer protection. Class actions around issues such as false advertising are on the rise in the US, and expanding in scope elsewhere in the world.

**ESG disputes** remain high on the list, again driven by the conveyor belt of new legislation on this topic, and by eco-consumerism. Our clients in this sector tell us their main issues are around climate change (seeking to reduce emissions in the entire product lifecycle

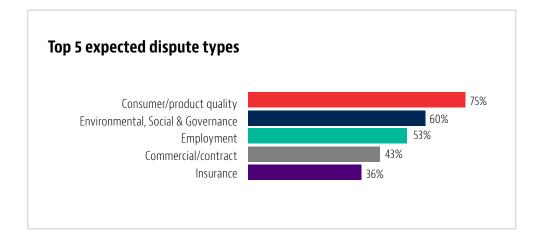
rather than simply offsetting), greenwashing and sustainability certification (balancing the need to show credentials against the risk of unsubstantiated claims), and specific regulations and expectations around single-use plastics, recyclability and water wastage.

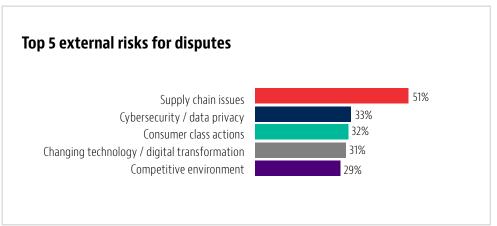
**Supply chain issues** remain the top external risk for disputes. Many organizations are bringing manufacturing in-house or are "reshoring," driven by the need for greater transparency in the supply chain, ongoing geopolitical uncertainties, greater control over quality, and possibility of technology-driven cost savings. This disruption to

existing practices and relationships continues to drive disputes with business partners and with employees.

For more information, download our guides to <u>EU greenwashing</u> <u>legislation</u> and <u>ESG legislation for luxury</u>, and our podcast on <u>plastics regulation in CG&R businesses</u>.









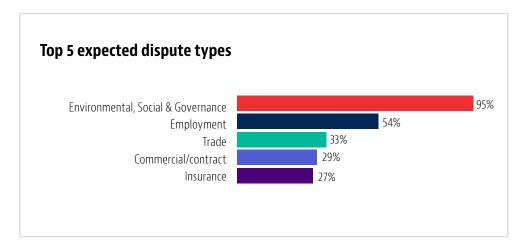
## **Energy, mining and infrastructure**

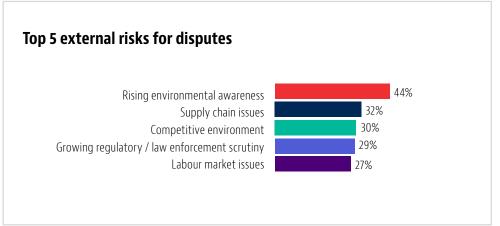
As for last year, **ESG** tops the list of dispute types expected to present a risk in 2024. Rising **environmental awareness** is also the top external disputes risk. Our clients are particularly focused on liability for breach of reporting requirements and mis-advertising. Energy transition will drive major changes in business operations and regulation. Activists are currently targeting oil firms that have been accused of greenwashing over the amount of renewable and low-carbon energy they produce.

**Employment disputes** feature highly, driven not just by the higher risk profile of some frontline jobs in this industry, but also by wider ESG agenda. Concerns over **trade disputes and supply chain issues** are also flagged. This is partly due to increasing geopolitical uncertainty, resource protectionism and the risk of nationalization.

General **commercial and contract disputes** also feature more highly than for most other

industries. We anticipate these disputes arising from new and untested technologies, and the challenges of incorporating these with existing infrastructure, such as hydrogen and carbon capture, usage and storage. We are also seeing new contract terms and structures not tested in the market, such as new offtake structures for hydrogen.







## **Financial institutions**

In this year's survey, **ESG** emerged as the predominant disputes concern for financial institutions. The current patchwork of voluntary ESG standards and fragmented regulation is coalescing toward more consistent global obligations for financial institutions. The risk of ESG litigation will continue to arise through misleading or incomplete statements, or when products and marketing do not meet ESG expectations. Regulators are focusing on this area, especially on issues such as greenwashing. This will lead to civil claims.

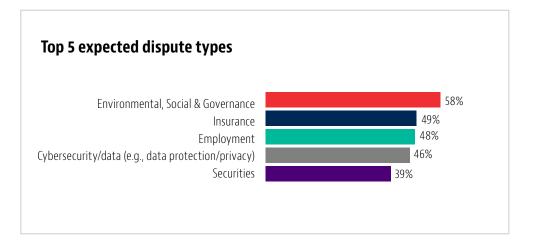
There is increasing **climate change litigation** against financial institutions, which our clients tell us is a key concern. This includes commercial banks and central banks; we have also seen the first climate change case against a development bank (in Brazil). A recent speech by an ECB board member warned that litigants are coming after the banks "come hell or high water," and banks need to be prepared.

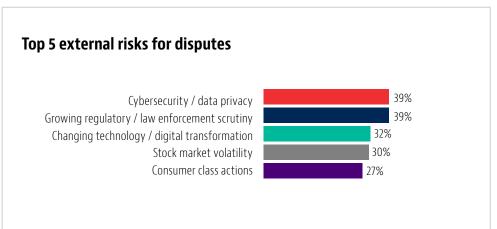
Cybersecurity and data privacy continue to present an external risk for disputes, along with growing regulatory and law enforcement scrutiny. The coming

year will see increased enforcement and cooperation by the authorities, especially across G7 jurisdictions. Respondents are also concerned about disputes risk from **changing technology**. This may include disputes flowing from use of cloud-based solutions, digital payment services or artificial intelligence. Cryptocurrency risks appear to have receded in the near term.

Read our latest report - 2024: What's on the Radar for Financial Institutions







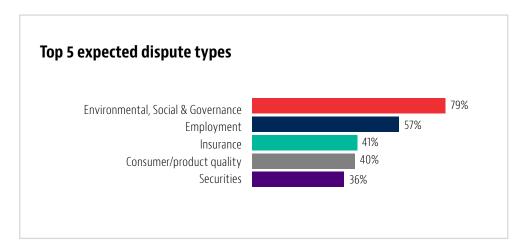


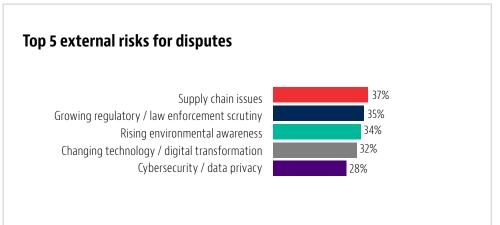
## **Healthcare and life sciences**

Around four-fifths of respondents in this industry are concerned about **ESG disputes** in the coming year. This figure has risen steadily over the past three years. We can expect to see more disputes related to pricing transparency, the use of dangerous substances in the manufacture of products, and the availability of high-quality healthcare and medicines. There is growing interest and discussion around the use of arbitration in this sector, although potential usage varies significantly by region and by matter.

Employment disputes are also a concern showing a rapid rise from last year.
Organizations are facing a range of disputes arising from the post-Covid workplace.
Consumer and product quality cases are also high on the list, reflecting more complex medical technology and an increasingly litigious environment, especially in markets such as the US.

risk for disputes, reflecting trends for reshoring and replication of supply chains, and government pressures around security of supply for pharmaceuticals and medical devices. Regulatory issues and digital transformation also pose a threat. For example, the rise of telemedicine has led to questions about appropriate standards of care in virtual environments.







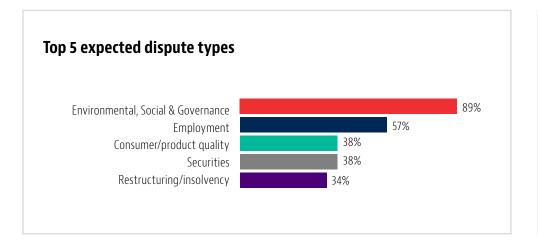
## Industrials, manufacturing and transportation

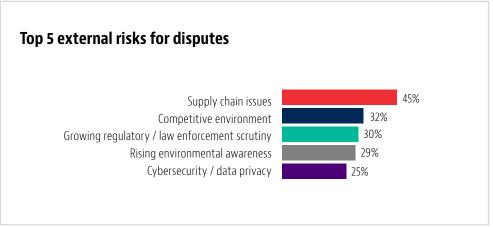
An overwhelming majority (89%) of industrial, manufacturing and transportation organizations say that **ESG disputes** present a risk in 2024. These can include broad issues such as carbon emissions, waste management or community impact. Other issues are more specific. A particular trend concerns the use of per- and polyfluoroalkyl substances (PFAS), which is receiving increasing attention from the public and regulators. PFAS litigation is well-established in the US but is now on the rise elsewhere, including the EU and Australia.

**Employment disputes** also rank highly – the joint highest in all industries we surveyed – reflecting concerns around workplace safety, fair wages and working conditions, union issues and a challenging environment for the recruitment and retention of talent. Our clients in this sector mention non-compete agreements as a key source of litigation.

**Supply chain issues** are the top external disputes risk, cited by nearly half (45%) of respondents. Our clients particularly mention

issues with the sourcing of raw materials including risks of human rights infringements, and other traditional risks such as corruption, bribery, fraud, the use of third parties, and disputes with joint venture partners. They also face significant challenges from sanctions and export controls.







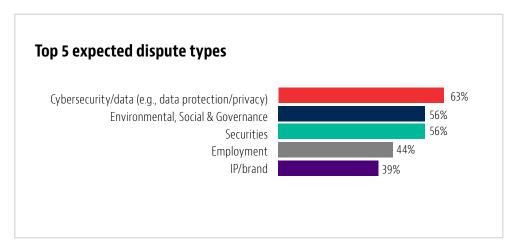
## Technology, media and telecommunications

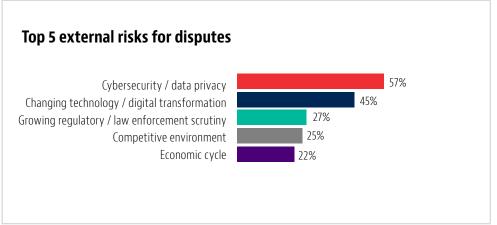
For the third year running, **cybersecurity** and data disputes topped the list of concerns, with almost two-thirds (63%) of respondents expecting such disputes in 2024. **ESG disputes** remain high on the list, with issues for TMT organizations around energy consumption (of data centers and other infrastructure), e-waste, ethical use of technology and responsible sourcing.

**Changing technology** is seen as a major external driver of disputes, cited by almost

half (45%) of respondents. The industry continues to work through the issues for future metaverse disputes – including applicable law, jurisdiction, IP protection, harassment and enforcement – while grappling with the emerging challenge of Al.

Growing **regulatory scrutiny** remains a key feature of the industry. Providers of digital services now have a range of regulatory responsibilities across issues such as user safety and empowerment, content moderation and transparency, and fair competition. Clients continue to monitor the EU's Digital Markets Act (which became effective from May 2023) and Digital Services Act (which largely becomes effective in February 2024), along with similar initiatives in other jurisdictions.







# Regional developments: Asia Pacific

#### China

## China moves from absolute to restricted sovereign immunity model

Starting from 1 January 2024, non-Chinese states and their assets will no longer have absolute sovereign immunity in China. Instead, they will have restricted immunity, which will allow foreign states to be sued in China – and certain types of their assets enforced – in respect of certain types of commercial activities and other specified situations. This new law brings China into line with common practice on sovereign immunity in most other parts of the world.

#### **Singapore**

#### Revisions to SIAC arbitration rules to take effect

The 7th edition of the Singapore International Arbitration Centre (SIAC) Rules is expected to take effect in 2024. The draft 7th edition proposed significant changes, including a new streamlined procedure for claims not exceeding SGD 1 million, the disclosure of the existence of any third-party funding agreements and the identity of third-party funders, and a new case management system. The revisions to the SIAC Rules aim to provide its users with the most modern features of international arbitration, and are expected to increase the SIAC's attractiveness as an arbitral institution.

## **Hong Kong**

#### **Enhanced reciprocal enforcement with China**

On 29 January 2024, the Mainland Judgments in Civil and Commercial Matters (Reciprocal Enforcement) Ordinance will come into effect. This Ordinance will enable easier reciprocal enforcement of a wider range of Hong Kong judgments in mainland China and mainland judgments in Hong Kong. It is intended to support Hong Kong's position as a dispute resolution venue, especially for litigation involving parties with assets located in mainland China.

#### **Japan**

#### Japan accedes to the Singapore Convention

In October 2023, Japan acceded to the United Nations Convention on International Settlement Agreements Resulting from Mediation, also known as the Singapore Convention. Japan is the 12th state to join the Convention. The Convention will enter into force for Japan on 1 April 2024. The Convention enables cross-border enforcement of settlement agreements resulting from mediation. Japan has made one reservation in acceding to the Convention, stating that it will apply only to the extent that the parties to the settlement agreement have agreed to the application of the Convention.

# Regional developments: EMEA

## Spain

New consumer representative action regulation expected Spain is expected to introduce new legislation to meet the requirements of the EU Collective Redress Directive. A draft bill, published on 9 January 2023 by the Spanish Ministry of Consumer Affairs, included the addition of a new title to the Spanish Civil Procedural Law (Law 1/2000, of 7 January) with a specific focus on the regulation of representative action processes. The aim is to streamline and unify the actions that can be brought by consumer groups, with a view to reducing mass litigation.

## Türkiye

## Competition authority's ability to conduct on-site inspections expected to change

A ruling by the Constitutional Court may give rise to a legislative amendment making the Turkish Competition Authority's power to conduct on-site inspections contingent upon obtaining a court order. The Competition Authority previously had the ability to carry out on-site inspections and gather evidence at workplaces without a court order. However, the Constitutional Court ruled that conducting these inspections without a judicial order is a violation of individuals' right to residential immunity (the scope of which includes workplaces). To address this issue, the Constitutional Court has brought it to the attention of the Turkish Parliament, whose approach is expected to become clear in 2024.



#### Possible legislative reform of the Arbitration Act 1996

We reported last year that the Law Commission of England and Wales was considering proposals to reform the Arbitration Act 1996. Its final report, with detailed proposals and a draft bill, has now been published. It recommends targeted amendments but concludes that root and branch reform is not necessary. If legislative reform is to occur, this will take place in 2024, sponsored before Parliament by the Ministry of Justice. Areas of reform include governing law, the duty of disclosure, power of summary disposal, arbitrator immunity and court powers in support of arbitration.

#### UK to join Hague Judgments Convention

In November 2023, the UK government announced that it will join the Hague Judgments Convention, following its consultation on whether the UK should join. The UK government will seek to sign and ratify the Convention as soon as possible, thought likely to be in mid-2024, and it will then enter into force 12 months from the date on which the UK deposits its instrument of ratification. The Convention is a multilateral instrument that provides for the recognition and enforcement of judgments, given in civil and commercial matters, between contracting states.

### **South Africa**

## Appeal court to rule on legal privilege in the context of national access to information legislation

An appellate court is expected to rule on whether two media houses are entitled, under South Africa's Promotion of Access to Information Act, to access a copy of an independent investigative report into alleged accounting irregularities at a listed global retailer, or whether this could be refused on legal privilege grounds. In 2022, the High Court rejected the claim to privilege, noting an absence of sufficient objective facts based on which it could assess whether litigation was in contemplation. The High Court's finding remains the prevailing position. An appeal, expected to be heard in 2024, will be instructive of the scope of legal privilege in this area.

# Regional developments: Americas

#### Canada

## Guidance on reasonable apprehension of bias in international arbitrations

Following an appeal heard on 6 December 2023 in Aroma Franchise Company Inc. et al. v. Aroma Espresso Bar Canada Inc. et al., the Ontario Court of Appeal will provide guidance regarding the disclosure obligations of arbitrators in all Model Law countries and the consequences of breaching those obligations. The Court will decide whether to uphold a decision setting aside arbitral awards totaling \$12.5 million following an arbitrator's failure to disclose an arbitral engagement by counsel for the appellants. The engagement, undisclosed for 15 months, only became known when the arbitrator inadvertently copied the wrong lawyer at counsel for the appellants. Baker McKenzie represents the respondents on this appeal, which is being closely watched by arbitration practitioners across Canada.

#### Brazil

## Court expected to rule on interest payments on private debts

The Special Court of the Superior Court of Justice is expected to rule on an issue that could change the approach to interest payments on civil debts and indemnities. The question is whether Article 406 of the Civil Code establishes that interest on arrears, when not provided for in a contract or determined by law, should be equivalent to the SELIC rate (a Brazilian index for monetary adjustment) or to 1% per month. The court has held a firm position since 2008 that the SELIC rate should be applied to monetary adjustments involving public debt. Its decision could now reverse over 100 years of practice in relation to private debts.

#### **United States**

## New California law bars automatic stay for appeal of refusal to compel arbitration

A new law took effect on 1 January 2024 allowing state trial court proceedings to continue during the appeal of an order dismissing or denying a petition to compel arbitration. This law gives the trial or appellate court judge the discretion to stay litigation while a defendant appeals a decision denying a motion to compel arbitration. Current law requires a court, in most cases, to postpone proceedings during the appeal. The new law runs contrary to a recent Supreme Court decision that held that, in federal court, litigation is automatically stayed during the pendency of an appeal of an order refusing to compel arbitration.

## Publication of settlement agreements with federal government agencies under review

Legislation requiring the publication of settlement agreements with federal government agencies may be considered by the Senate in 2024. Under the proposed legislation, the Settlement Agreement Information Database Act, which passed the House of Representatives in January 2023 and was placed on the Senate Legislative Calendar, an agency would be required to submit information regarding any settlement agreement (including a consent decree) entered into by the agency related to an alleged violation of federal civil or criminal law. If an agency determines that information regarding an agreement must remain confidential to protect the public interest, the agency would be required to publish an explanation justifying any confidential requirements.

## Restrictions on foreign entities and governments from funding US litigation

With a Democratic-controlled Senate and a Republican-controlled House of Representatives, bipartisan legislation was introduced in both chambers in September 2023 that would put safeguards in place to prohibit third-party litigation funding by foreign states and sovereign wealth funds. The proposed legislation, the Protecting Our Courts from Foreign Manipulation Act, would require disclosure from any foreign person or entity participating in civil litigation as a third-party litigation funder in US federal courts, and ban sovereign wealth funds and foreign governments from participating in litigation finance as a third-party litigation funder, either directly or indirectly.

## **Contacts**



Claudia Benavides
Partner, Bogota
Claudia.Benavides@bakermckenzie.com



Andy Moody
Partner, London
Andy.Moody@bakermckenzie.com



Investigations, compliance and ethics

Joanna Ludlam

Partner, London

Joanna.Ludlam@bakermckenzie.com



Investigations, compliance and ethics

Peter Tomczak
Partner, Chicago
Peter.Tomczak@bakermckenzie.com



Asia Pacific

Nandakumar Ponniya

Partner, Singapore

Nandakumar.Ponniya@bakermckenzie.com



Europe, the Middle East and Africa

Steve Abraham
Partner, London
Stephen Abraham@bakermckenzie.com



Americas

Luis Dates
Partner, Buenos Aires
Luis Dates@bakermckenzie.com



Americas

William Devaney
Partner, Chicago

William.Devaney@bakermckenzie.com



Employment disputes

Michael Brewer
Partner, San Francisco
Michael.Brewer@bakermckenzie.com



Tax disputes

Maria Antonia Azpeitia

Partner, Madrid

MariaAntonia.Azpeitia@bakermckenzie.com



Antitrust disputes
Francesca Richmond
Partner, London
Francesca.Richmond@bakermckenzie.com

**Local contacts** 



## **About us**

## **Global litigation force**

Protecting your business in a global market takes lawyers who can control pivotal cases while maintaining a broad perspective. Our dispute resolution team comprises experienced litigators with deep roots in their home jurisdictions – drawing on the wisdom gained from local training, contacts and cultural understanding to drive your litigation strategy. As part of an integrated global team, we ensure that business objectives are not sacrificed to one-off wins, and that your reputation for fair dealing remains intact.

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Baker McKenzie's quality is consistent among the different branches in different countries. They have a very good overall view of the local law and how it is applied.

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## Survey methodology

The study surveyed a total of 600 senior legal and risk leaders from large organizations (annual revenue greater than USD 500 million) based in the UK, the US, Singapore and Brazil. Fieldwork was completed in October 2023.

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