

**Asia Pacific
Whistleblowing Landscape**

BENCHMARKING & BEST PRACTICES



Foreword

Companies operating in Asia Pacific are seeing more whistleblower reports than ever before — and new regulations are adding fresh layers of complexity in responding to those reports.

Addressing whistleblower complaints is front and center, for companies in Asia Pacific. Across the region, **41%** of business leaders report an increase in whistleblower reports over the past year.

A range of factors underpin this trend, from new regulations to increased media attention to some countries providing incentives for whistleblowers. It is clear that employers that lack the mindset and tools to navigate whistleblowing complaints will become more vulnerable to risks such as regulatory sanction, reputational damage and employee disengagement or claims.

By strengthening and supporting whistleblowing programs, companies demonstrate that they value integrity and a speak-up culture. This is a key component of Environmental, Social and Governance (ESG) values. The C-Suite and board should consider the value of an integrated initiative to encourage, listen and act in response to whistleblowing and also value and protect the whistleblowers.

The rise in complexity in managing and mitigating risks for whistleblowing across the Asia Pacific region presents a moment of opportunity for companies to refine and strengthen their policies. Legislators, human resource professionals, general counsels and compliance professionals alike need to find integrated solutions to respond to both internal and external pressure points.

Investing in whistleblowing procedures which encourage individuals to report issues they have identified in the organization can result in real benefits to the company. However, those procedures also need to be robust enough to protect the whistleblower from retaliation and the company from claims that the reports have not been handled correctly. It is worth taking the time to make sure that balance is achieved.



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In this report, find out more about:

- Where and why companies across the region are seeing more whistleblower complaints
- New whistleblowing regulations adding to the challenges for companies
- Addressing how whistleblowing is critical for a strong ESG program
- Benchmarking best practices across Asia Pacific including the investigation of whistleblower complaints
- The challenges of financial incentives for whistleblowers and anonymous reports
- Market spotlights on Australia (including the extent to which measures in the Australian Securities and Investments Commission's guidance have been adopted), Mainland China, and Japan

In addition to the findings from this report, we invite you to explore resources that focus on building connected solutions for your business and legal challenges.

Visit our [Solutions for a Connected World](#) site and [Investigations, Compliance & Ethics](#) page.



Research Methodology

From January to March 2022, Acuris Studios, the publishing division of Acuris, canvassed the opinions of 523 senior executives from companies in Asia Pacific.

The respondents were evenly split across the following jurisdictions: Australia, Mainland China, Hong Kong, Singapore and Japan.

Respondents were also evenly split by the following sectors: Healthcare & Life Sciences (HLS); Financial Institutions (FI); Technology, Media and Telecoms (TMT); Energy, Mining and Infrastructure (EMI); Consumer Goods and Retail (CGR); Industrials, Manufacturing and Transportation (IMT).

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Key Statistics At a Glance

The top whistleblowing complaints among respondents from Japan, Mainland China, Hong Kong, Singapore and Australia are:

72% Bullying, discrimination and/or harassment

62% Breaches of internal policies

55% Workplace health and safety concerns

43% Anti-competitive behaviour

33% Breach relating to ESG issues



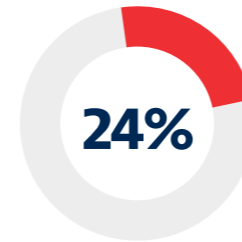
42% considered that the organization had received complaints that were vexatious or prompted by self-preservation with Mainland Chinese responses at **72%** but Australia at **19%**



Almost 9 in 10 (86%) provided training on induction about the whistleblowing processes but less than half (**45%**) provided regular or periodic training

87%

Almost 9 in 10 have taken disciplinary action against persons responsible for victimization of whistleblowers



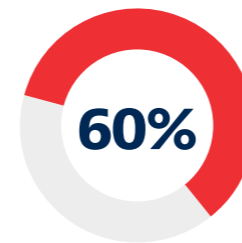
Almost one-quarter considered that uncertainty about the procedure for blowing the whistle was the number one reason why someone would hesitate to do it



Half (50%) agreed that financial rewards for whistleblowers would encourage reporting of legitimate misconduct they otherwise might not, but **83%** thought that it would increase the risks of false claims



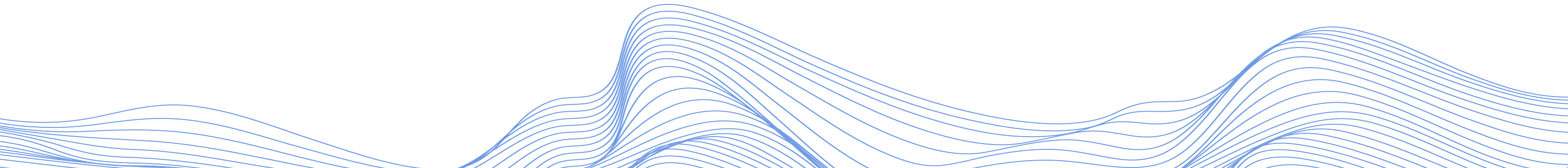
Almost three-quarters (70%) said over half of the whistleblowing reports received were anonymous



have received whistleblowing reports from former contractors or suppliers external to the company

30%

Almost one-third have breached confidentiality obligations set out under their own whistleblowing policy when dealing with a whistleblowing report





PART 1

Section 1: The Rise of Whistleblowing in Asia Pacific

Companies are facing increased scrutiny on their corporate behaviour. This scrutiny comes from external sources such as regulators, investors and consumers, as well as internally, from board members and employees. A number of jurisdictions in the Asia Pacific region have introduced — or plan to introduce — mandatory requirements for whistleblowing programs as an avenue for parties to raise concerns about corporate misconduct.

1.1 CURRENT COMPLAINTS ILLUSTRATE A WIDE RANGE OF CONCERNS

Survey results indicate the following concerns as top of mind when it comes to whistleblowing:

72%

of companies received complaints about bullying, discrimination and/or harassment.

62%

of companies received complaints about breaches of internal policies.

55%

of companies received complaints about workplace health and safety issues and/or conduct of danger to the public or the environment.

These results suggest companies are facing pressure to take responsibility for investigating and remediating transgressions across a broad range of issues.

Respondents also shared that different types of financial misconduct were regularly reported, including:

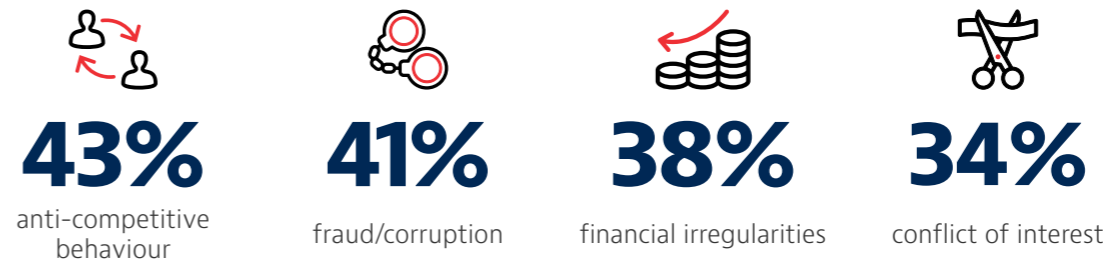
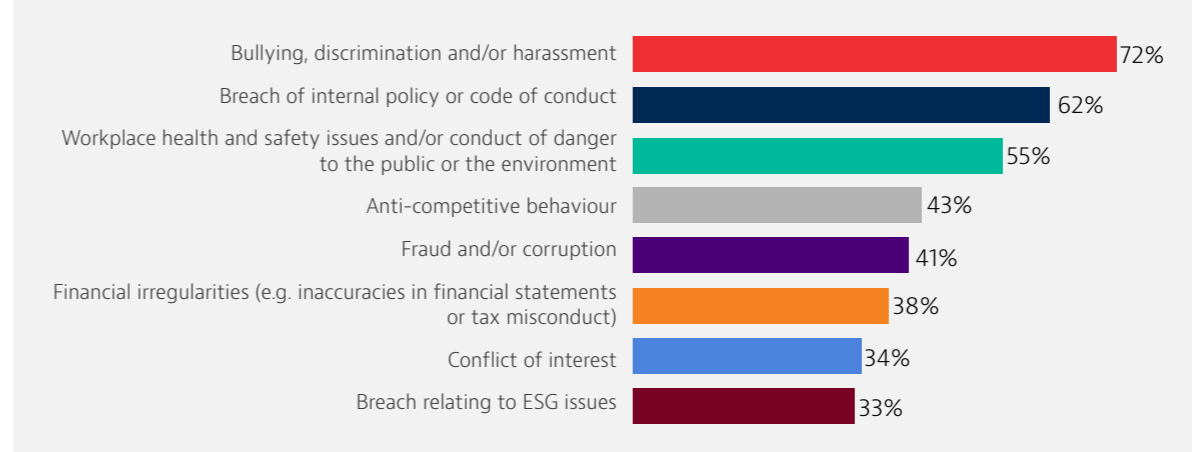


Figure 1. Types of Whistleblow Complaints Received (2019 to 2022) (multiple responses allowed)



The results show that **33%** of companies are receiving complaints about environmental, social and governance (ESG) issues.

We expect that figure to rise over the next few years given the growing awareness of the ESG agenda including efforts to improve environmental protections to mitigate climate change.



1.2 THE ASIA PACIFIC LANDSCAPE REMAINS UNEVEN

By jurisdiction

In the past 12 months, most jurisdictions across Asia Pacific have seen whistleblowing reports rise or stay the same, but there are some notable differences.

Australian respondents reported the lowest levels of increases in the number of reports received at only **17%**, despite the fact that **87%** of respondents considered that the Australian whistleblowing legislation that came into force in 2019 had increased whistleblowers' willingness to come forward. By contrast, **74%** of Mainland Chinese respondents report higher whistleblower cases with **61%** of those in Hong Kong saying the same.

By industry

Just under half (**45%**) of companies in the highly regulated industries — Financial Institutions (FI), Healthcare & Life Sciences (HLS) and Energy, Mining and Infrastructure (EMI) — saw an increase in whistleblowing reports over the past year.

By contrast, only **35%** of Consumer Goods and Retail (CGR) companies saw an increase in reports. That said, however, from 2021 to 2022 CGR businesses actually recorded some of the highest number of complaints overall. Only the EMI and Industrials, Manufacturing and Transportation (IMT) industries saw a greater number of overall complaints. These industries also have a higher number of complaints

(as compared to the other industries) relating to workplace health and safety and/or conduct that poses a danger to the public or the environment.

Meanwhile, bullying, harassment and discrimination, the issues that have prompted the most whistleblowing complaints, appears to be greater in Technology, Media and Telecoms (TMT), CGR and FI industries.

1.3 REGULATORY UPDATE: INCREASED PROTECTIONS FOR WHISTLEBLOWERS

The success of any whistleblower program depends on the protections afforded to the whistleblower. In most cases, a whistleblower is less likely to come forward if they doubt the level of confidentiality and protection against retaliation that will be provided by the company.

Whistleblower protections are being strengthened across Asia Pacific. In Australia, for example, the Australian Securities & Investments Commission (ASIC) is overseeing a substantial expansion of the Corporations Act's provisions on whistleblowing, which came into effect in 2019. In Japan, the Whistleblower Protection Act was amended in 2022 to provide additional support to complainants.

Other parts of the region are following suit or discussing whether to bring forward their own protections for whistleblowers. For example:



In **Hong Kong**, the Stock Exchange of Hong Kong has updated its listing rules to introduce a code provision for issuers to implement a whistleblowing policy and system for employees and those who deal with the issuer (e.g., customers and suppliers) to raise concerns of impropriety, in confidence and anonymity, with the audit committee or other appropriately designated committee.



In **Japan**, the Whistleblower Protection Act was amended in 2022 to provide additional support and protections to complainants while also expanding requirements for companies.



In 2019, **Mainland China** called for government agencies to establish and promote whistleblowing programs. In recent years, various government agencies have issued specific rules on whistleblowing programs in their respective areas. Read more in our [market spotlight](#).

These developments in Asia Pacific are also being seen in other regions, particularly in Europe, through the developments from [European Union's Whistleblower Directive of 2019](#).



1.4 ROOM FOR IMPROVEMENT: HANDLING WHISTLEBLOWER COMPLAINTS EFFECTIVELY

Pressure is mounting on companies to manage and respond to whistleblower complaints effectively. Compliance programs are being held up to higher standards too, therefore having a well-resourced whistleblowing program in place and following up with proportionate investigations will be key to their success.

While most are doing just that, **29%** of respondents report that they have received a complaint about the way in which whistleblower reports have been handled.

Where such complaints do occur, the main reasons given include a lack of transparency with the process, a lack of good faith in the personnel charged with carrying out investigations, and frustration about the lack of updates on the case.

“The key to a successful whistleblowing program is to have clearly communicated and well implemented procedures. The survey results showed significant variances between respondents in relation to how whistleblowers were kept informed and supported.”



Georgie Farrant
Partner, Sydney

Figure 2. Ways Whistleblowers Are Kept Informed (multiple answers allowed)

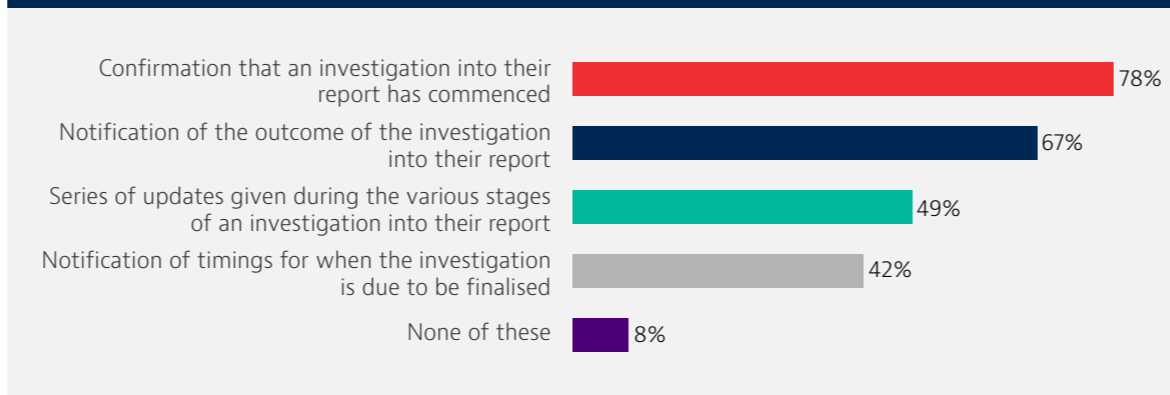
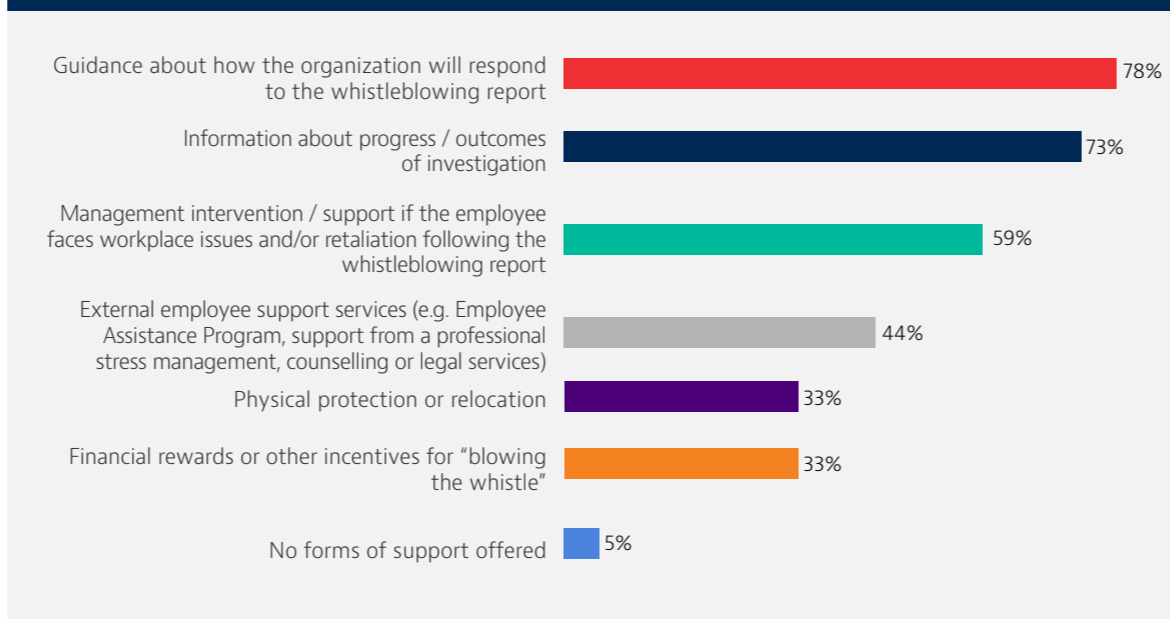


Figure 3. Types of Support Offered to Whistleblowers (multiple answers allowed)



Advising companies on whistleblowing policies and procedures the following elements are key.



Build trust in the whistleblowing program.

Where whistleblowers do not have faith in their organization's processes, there is greater potential for them to seek to be heard elsewhere. This could lead to attention by regulators and stakeholders, for example, or reputational damage in the media.



Be thoughtful in communications with whistleblowers.

It can be tricky to provide the transparency that whistleblowers demand, making it harder to demonstrate that reports are being taken seriously. However, some respondents demonstrated comprehensive systems of notifications — according to a respondent from Australia:

“Apart from the notification about when the investigation will be complete, we send out a series of relevant updates. The investigation process is defined, according to which investigations are carried out. So, once each step is complete, we send them a notification. They get a good idea how fast the investigation is proceeding.”



Manage expectations on what steps will or will not occur.

Many organizations do not feel comfortable guaranteeing that all complaints will result in an investigation, for example,

“We have to determine the importance of each report on a case-by-case basis,” says a respondent from Japan.



Provide appropriate level of transparency.

Whistleblowing policies should be explicit about the steps that will be taken and when processes will complete — but the employer should also make it clear that it may not always be appropriate to keep the whistleblower fully updated.



Section 2: ESG in Focus

Companies are recognizing that they must adopt best practices in the environmental, social and governance (ESG) space. The exponential growth in ESG value and recognition has brought increased pressure on companies from regulators, investors, consumers and employees.

2.1 INCLUSION OF ESG IN WHISTLEBLOWING PROGRAM

1% The rise of ESG value and focus is reflected in our survey results. Less than **1%** of respondents stated that they did not have an ESG or sustainability policy.

60% Companies are now moving to include all aspects of ESG within their whistleblowing program. More than half of respondents (**60%**) say their whistleblower reporting program now covers breaches of their ESG or sustainability policy.

2.2 ESG MISCONDUCT

Connecting compliance program elements such as the whistleblowing process to ESG standards is critical to meeting company commitments and public statements on ESG. The comments from respondents illustrate the current gap.

ESG matters

“We investigate ESG-related misconduct because ESG norms have become strict in recent times — we want to uncover any potential risks and mitigate them for regulatory compliances.”

— Respondent from Singapore

Change is impending

“Whistleblowers are raising these issues voluntarily, but because they are not covered under our whistleblowing reporting program, we cannot move ahead with any investigation.”

— Respondent from Mainland China

Whistleblowing and ESG are now hand in hand

“We cannot continue with the ESG program unless we know about any discrepancies,” says the respondent. “Preparing a report helps us cater to the latest demands and ensure we improve ESG standards.”

— Respondent from Hong Kong



Section 3: Benchmarks and Challenges for the Region

There has been a concerted effort by companies to establish more robust whistleblower programs to ensure compliance with local regulations and to encourage individuals to report any issues. The importance of building out a formal whistleblowing program is clear but our research shows that they can vary significantly in sophistication and resourcing. Among the **92%** of respondents with a written policy, more than half (**53%**) adopted one global policy which applied to all jurisdictions while only **11%** applied different policies to different jurisdictions.

3.1 VARIATIONS IN WHISTLEBLOWER PROGRAMS

Given the complexities and nuances of individual markets and the way in which regulation is evolving across different jurisdictions, a one-size-fits all approach will not cut it.

Below are the responses from companies across different jurisdictions highlighting what they consider key to establishing an effective whistleblower program.



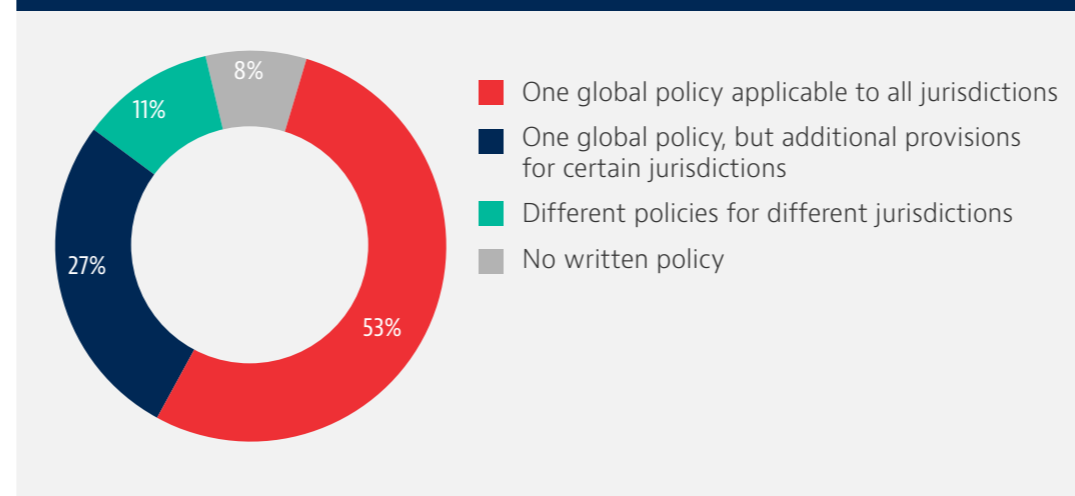
Whistleblower policy

Only **8%** of our respondents did not have a formal written whistleblower policy.

Among the **92%** of respondents with a written policy, more than half (**53%**) adopted one global policy which applied uniformly to all jurisdictions.

That may be increasingly inappropriate given the complexities and nuances of individual markets (both at a legal and cultural level) — and the way in which regulation is evolving in different ways in different jurisdictions.

Figure 4. Whistleblowing Policy Set-up





Engagement with program

Most companies recognize that it is important to raise awareness of the whistleblowing program in order for it to be effective.

There are a number of methods deployed by companies around the region. Training is provided by **86%** of companies at the point of an employee's induction. That figure drops significantly for companies which provide regular/periodic training (**45%**).

Reminders are circulated by **31%** of our respondents, with **64%** providing internal newsletters or company-wide emails.

69% of respondents made the information available on the organization's website/intranet.



How whistleblowing reports are addressed

Receiving reports is only part of an effective whistleblowing program — the other key component is how such reports are addressed.

Our research shows that most companies (**83%**) provide dedicated resources to follow up on whistleblower reported issues.

However, there were significant variations across jurisdictions. For example, Australian respondents reported the highest levels of dedicated resources within the organization (**67%**), whereas Japan reported the highest level of dedicated resources outside the organization (**41%**).

Figure 5. How Organizations Raise Awareness of Whistleblowing Processes

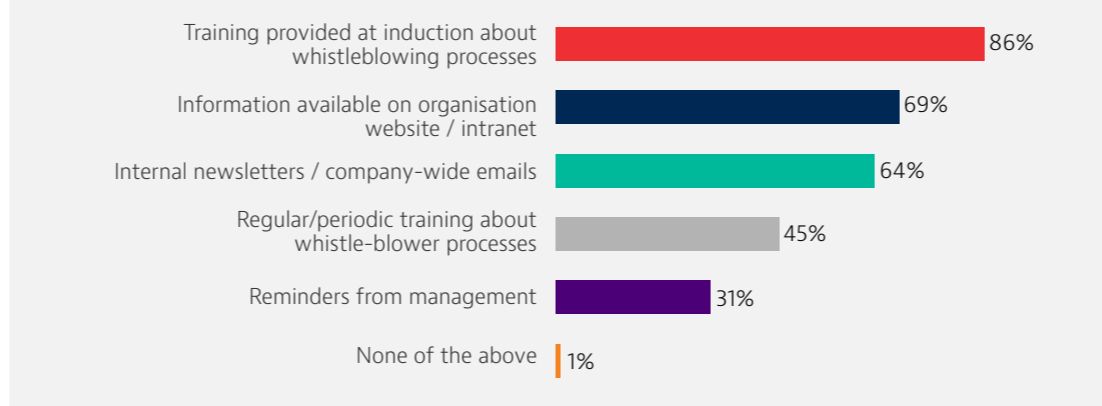
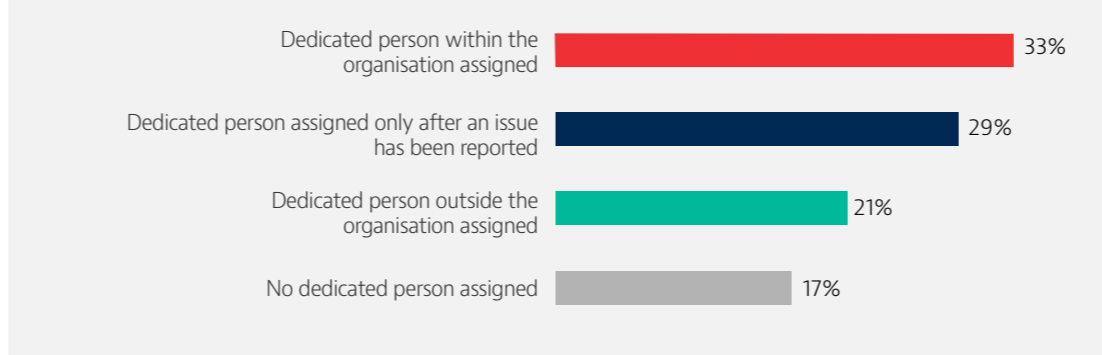


Figure 6. How Whistleblowing Reports Are Addressed



Key Tips

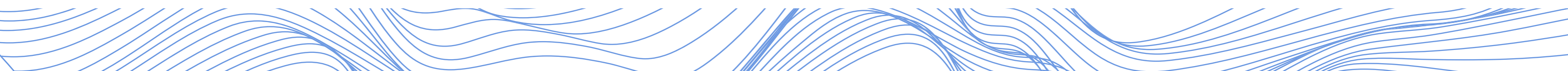
- Investigations are an important tool to ensure that a company is credibly “walking the talk” in relation to its corporate compliance program and to support its ESG standards.
- Where an issue arises, authorities and regulators will look at the program as a whole — including how it is implemented, monitored and tested and whether issues reported are being properly reviewed, and where appropriate, investigated.
- Companies without adequate resources devoted to following up on whistleblower reports will struggle to respond quickly and effectively to complaints. It may also make it difficult to deliver a consistent response.

By contrast, appointing a specific officer who has reporting obligations to a specialist board committee has the potential to build trust and improve confidence in the organization's governance and commitment to supporting whistleblowers.



Mini vandePol

Asia Pacific Head, Investigations, Compliance & Ethics, Hong Kong





Preserving confidentiality

For a whistleblower program to be effective, employees and other potential reporters must trust and use the system. A key part of gaining such trust is preserving the confidentiality of the whistleblower to the extent possible.

The survey results show that a wide range of measures are being utilised to protect confidentiality.

Over two thirds of all respondents (68%) ensure that paper and electronic documents relating to whistleblowing reports and investigations are securely stored. Additionally, more than half of all respondents (57%) have procedures in place to remind those involved in any investigation of the confidentiality requirements.

Respondents considered that the top three reasons why employees would be reluctant to blow the whistle were:

- fear of harassment, criticism or ostracization
- uncertainty about the procedure for blowing the whistle
- that there is no point in blowing the whistle as no action is likely to be taken

If companies do not gain the confidence of employees on these issues they risk issues within the organization going unreported and unresolved.

However, despite such measures being taken, almost a third of companies (30%) admit to having breached the confidentiality obligations set out in their whistleblowing policies, even if this was inadvertent.

Figure 7. How Organizations Maintain Confidentiality of A Whistleblower’s Identity (multiple responses allowed)

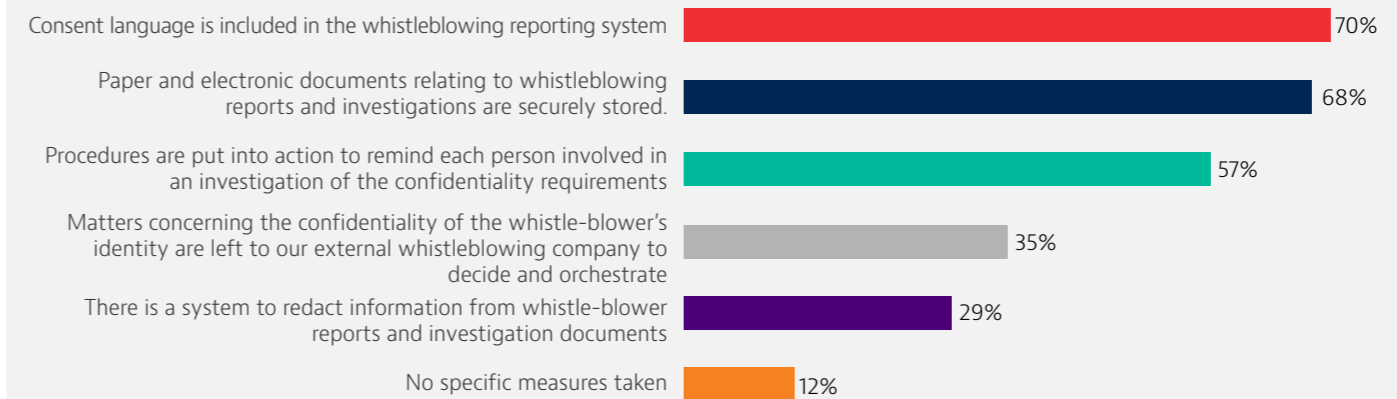
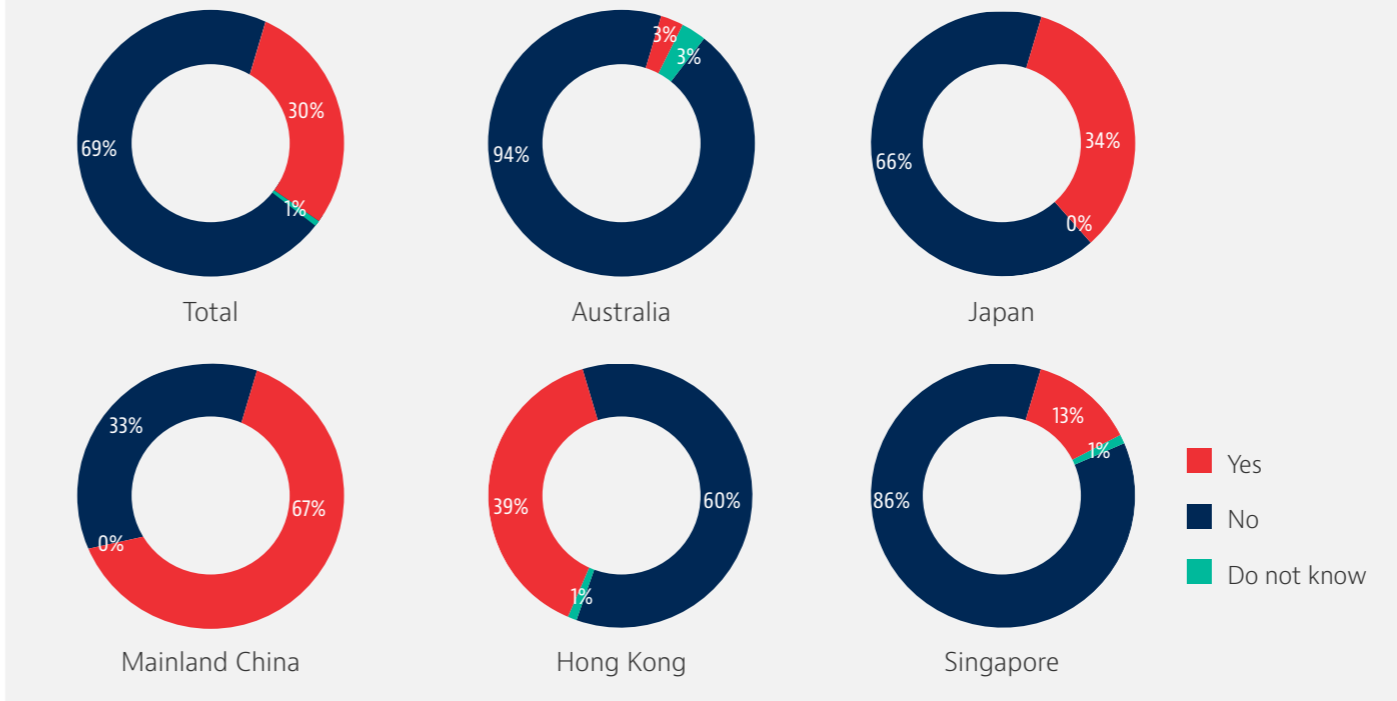


Figure 8. Breach of Confidentiality





3.2 FINANCIAL INCENTIVES: THE RIGHT MOVE?

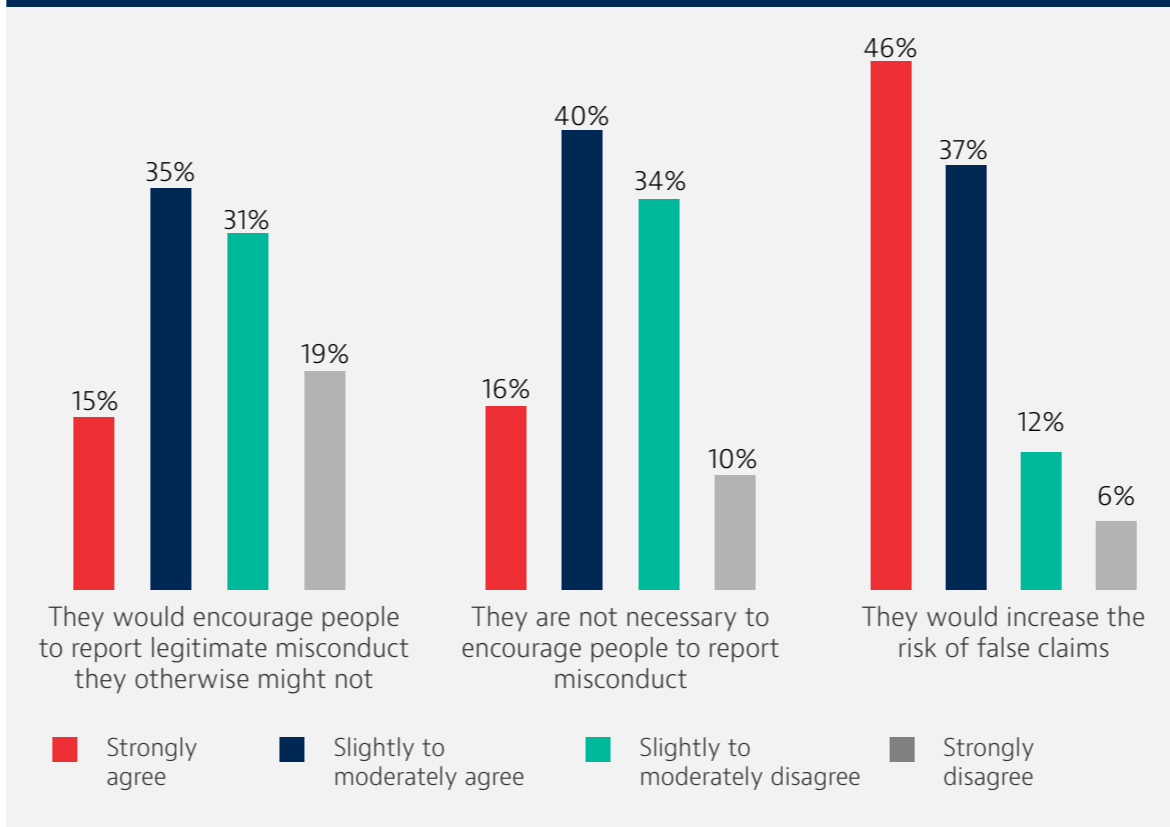
The matter of whether financial incentives should be offered to encourage whistleblowers to come forward has long been debated — even in jurisdictions such as the United States, where the practice is well-established under the **2010 Dodd-Frank Act**, which requires certain United States agencies to reward and protect whistleblowers. Supporters of incentives argue they encourage employees to come forward when they might otherwise be put off by the perceived risks. Opponents worry about the potential to incentivize false reporting.

Respondents are similarly split:

- 50%** believe incentives would encourage people to report legitimate misconduct they otherwise might not
- 83%** worry about the possibility of false claims
- 56%** think they may not be necessary

Financial incentives are not prevalent in the region, with the exception of Mainland China, which has recently increased financial incentives for whistleblowers in relation to market conduct matters.

Figure 9: Regarding Financial Incentives or Rewards to Encourage Whistleblowing

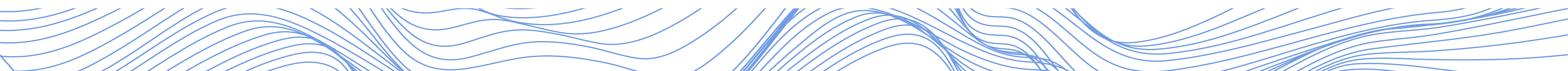


“Encouraging whistleblowing will do a lot of good for the company and incentives will mean people who have refrained from reporting will come forward.”

— Respondent from Mainland China

“Legitimate claims will be reported even if there are no rewards — if we start rewarding whistleblowing, we won’t be able to control the number of false claims.”

— Respondent from Japan



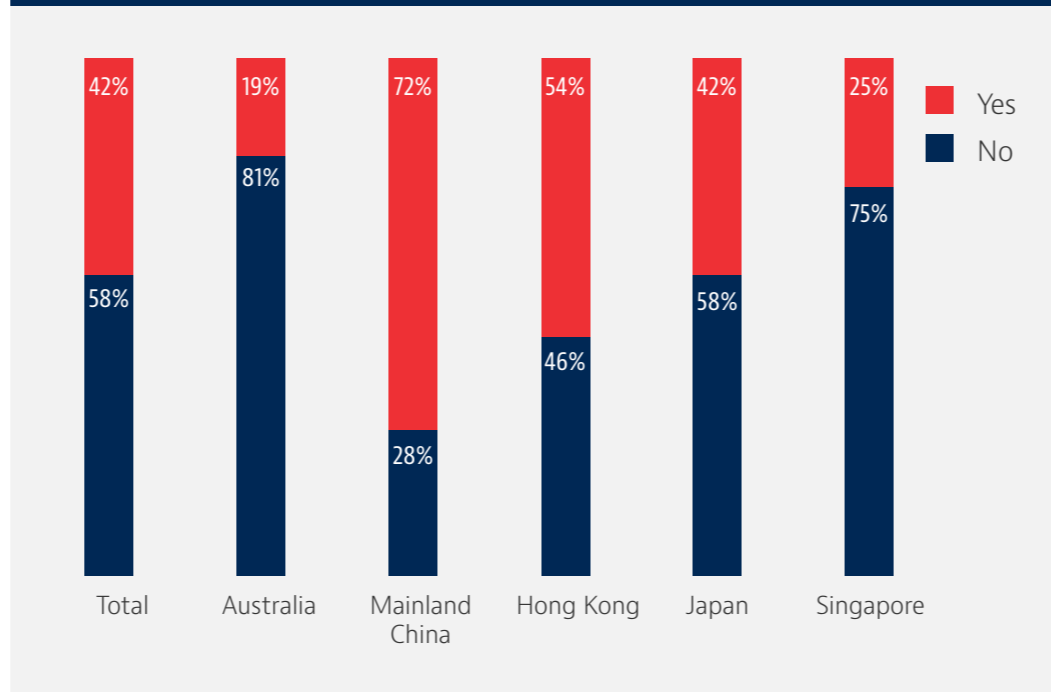


3.3 DEALING WITH VEXATIOUS REPORTS OR THOSE PROMPTED BY SELF-PRESERVATION

Respondents are concerned that some of the whistleblowing reports are vexatious. Close to half of respondents (42%) believe their organization has received reports that are vexatious or prompted by self-preservation.

Almost three quarters (72%) of respondents from Mainland China stated that they had received vexatious or self-preservation reports, including potentially from their competitors. Conversely, around one quarter of respondents from Singapore (25%) and one fifth of respondents from Australia (19%) indicated they received reports or those prompted by self-preservation.

Figure 10. Whistleblowing Complaints Were Vexatious or Prompted by Self-preservation



“People are driven by self-preservation and we cannot make them realise the value of other people’s time. There will be reports received in this manner, and we can disregard them.”

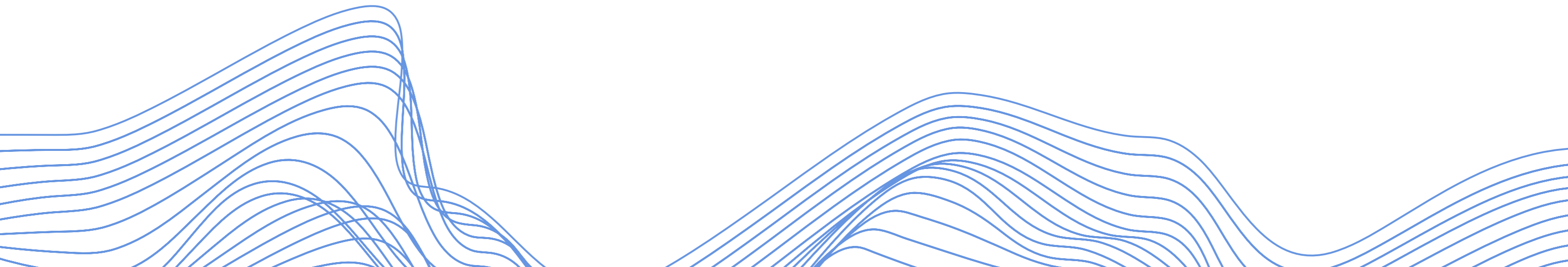
— Respondent from Mainland China

“Vexatious allegations have been made in the past and this has caused a lot of distress to related personnel. Whistleblowers should realise the importance of reporting a misconduct and not misuse the provisions.”

— Respondent from Mainland China

“When these reports are received, we can gauge their significance to the company or to the stakeholder. If we deem that there is no significance, then the investigation is not conducted.”

— Respondent from Japan





PART 2

Section 4: Market Spotlight on Australia

Australia's enhanced whistleblowing legislation, which came into effect in 2019, created a watershed moment for both public and private companies. In addition to making whistleblowing policies compulsory for many companies the reforms also significantly expanded the types of complaints that could be reported and the list of individuals who can make disclosures, including current and former employees, their family members and suppliers.

The new regime led to significant improvements in procedures adopted by Australian companies and many of the recommendations have been adopted. For example:

100%

the highest percentage of written whistleblowing policies

4%

the lowest percentage of whistleblowers complaining about how their cases were handled

85%

high levels of support being offered to whistleblowers such as counselling or other support services

83%

having a dedicated Whistleblowing Protection Officer/Whistleblowing Investigation Officer

“The broader range of conduct which can be reported and receive protection as well as the expanded scope of persons eligible for protection under the revised legislation means that it is imperative for companies to be on top of the new requirements.”



Michael Michalandos
Partner, Sydney



4.1 THE IMPACT OF REFORMS

Respondents believe Australia's reforms have provided whistleblowers with a supportive climate to report issues with **87%** believing the 2019 reforms have encouraged employees to report illegal activities and misconduct. This includes **45%** who think a willingness to bring complaints has greatly increased.

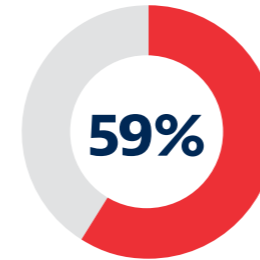
Despite this positive endorsement of the new regime, relatively few Australian businesses report increases in whistleblowing activity over the past 12 months (**17%**) whereas **48%** report a decrease in the number of reports.

Respondents who undertake whistleblowing training showed a high rate of training at the point of an induction but also a significant drop-off in the rate vis-à-vis conducting ongoing whistleblowing training of employees. It may be that we see an increase in whistleblower activity as more employees are trained on both the operation of their company's whistleblowing policy and Australia's new whistleblowing regulations more generally.

New regulations bring new challenges. Some of these challenges appear to be reflected in the survey results. For example:

19%

Australian respondents reported the lowest response rate in relation to the receipt of reports that were vexatious or prompted by self-preservation (**19%**), but that still means that **approximately a fifth** of companies are having to deal with this difficult issue — it is noted that the new legislation removed the need for whistleblowers to establish that they were reporting in good faith in order to receive the protections.



59% of Australian respondents reported that they had encountered difficulty in establishing whether the whistleblowing laws applied to a particular report.

22%

22% of respondents identified an issue with the complaint not including sufficient information for the company to take a view on whether it is a protected disclosure. Determining whether an investigation or any other steps should be taken in these circumstances can be difficult, particularly when the report is vague but about a potentially serious allegation.

Distinguishing between a "personal workplace grievance", which is not generally protected by Australian whistleblowing laws, and other reportable matters that are covered by the law was also identified as an issue by **18%** of respondents.

Respondents across all jurisdictions identified that bullying, discrimination and/or harassment were the most commonly reported whistleblowing matters in the last three years (**72%**). These are issues which may constitute "personal workplace grievances". However, this is not always the case as whistleblowing reports often contain a mixture of different whistleblowing matters. In addition, reports which on first review appear to be 'personal' can be captured by the Australian legislation if for example, systemic conduct towards a number of individuals is raised.



4.2 ASIC UPDATE

The Australian Securities & Investments Commission (ASIC) has made whistleblowing one of its focus areas and most recently published an open letter to a number of Australian companies encouraging them to check whether their whistleblowing policies were compliant with Australia’s whistleblower laws.

ASIC has also issued guidance on what information it expects to see in whistleblower policies, as well as a number of good practice recommendations that go beyond the requirements of the whistleblowing legislation, such as providing upfront and ongoing training to all staff.

The research shows that:

- **51%** of respondents say they have fully adopted ASIC’s recommendations.
- Of those that have not, **77%** say the reason is that adopting the guidance in full would make their policy too lengthy or unwieldy.

The survey results show the balancing act that Australian organizations need to consider when deciding whether to include all of ASIC’s recommendations in their policy whilst simultaneously having a user-friendly policy that will encourage whistleblowers to come forward.

83%

Offer support services are offered to whistle-blowers (including counselling or other professional or legal services)

83%

Give regular updates to whistle-blowers on the status of any investigation into their report

51%

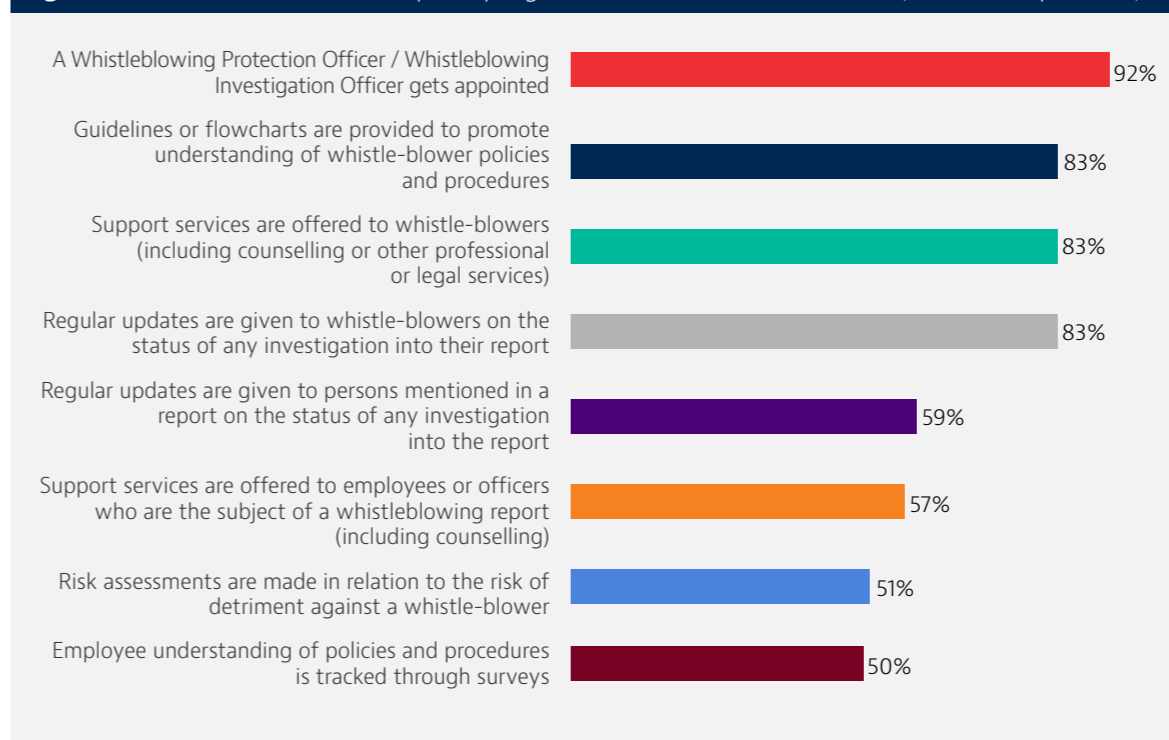
Conduct risk assessments in relation to the risk of detriment against whistleblower

The least frequently adopted ASIC recommendation is tracking employee understanding of whistleblowing policies and procedures through surveys (**39%**). This, combined with less than half of respondents conducting regular or periodic training, means that there is more that can be done to ensure employee awareness.

“Whistleblowers now have more confidence in the system and there is more regard for whistleblower policies.”

— Respondent from Australia

Figure 11. ASIC Recommendations Adopted by Organizations in Whistleblower Policies (Australian respondents)





Section 5: Market Spotlight on Mainland China

The past few years have seen some significant development in whistleblowing programs in Mainland China, which may be explained by the maturity of China’s anti-corruption program introduced by President Xi Jinping. A reliable whistleblowing program is an integral part of a robust compliance program, as it allows for companies to review and address misconduct it might not otherwise see.

5.1 GOVERNMENT MANDATES

In addition to the clamp-down on corruption by the Xi government, there has also been the introduction of government mandates relating to whistleblowing, including the most recent updates:

- July 2021 saw Mainland China’s Ministry of Finance (MOF) issue the Interim Measures for Rewards for Whistleblower Reports of Major Violations in the Field of Market Regulation (the Interim Measures), which took effect in December 2021. The Interim Measures provide for financial rewards for whistleblowers up to RMB 1 million if (i) there are specific targets, concrete facts or clues in relation to violations or crimes, as well as key evidence; (ii) State Administration for Market Regulation (SAMR) is not already aware of the issue reported; and (iii) the whistleblower report is substantiated and the matter is closed.
- June 2022 saw the Ministry of National Security release the Provisions on Incentives for Citizens Reporting Acts Endangering National Security (the Provisions), which introduced the whistleblowing program in relation to national security. The Provisions require confidentiality, non-retaliation and protection for whistleblowers and provide financial rewards amounting to over RMB 100,000.
- Aside from the above, Mainland China’s government established a range of industry-specific whistleblowing rules, which have provided reporting channels and financial rewards in healthcare, securities, banking, insurance, environment and safe production areas.



Compliance Breaches and Investigations

Are Mainland Chinese and Hong Kong companies at greater risk of compliance breaches and regulatory investigations? Only **14%** of respondents from Mainland China and **30%** of respondents from Hong Kong indicated that they had policies which were jurisdiction-specific or provisions added for certain jurisdictions. Mainland China respondents also indicated they have accidentally breached confidentiality requirements under their whistleblowing policy (**67%**), and more than a third (**37%**) have no designated individual assigned to following up complaints.

In Hong Kong, meanwhile, employers are less likely to provide training on whistleblowing at induction for new staff than their peers anywhere else in the region. And fewer than a third (**32%**) provide follow-up or periodic training.

Closing the gap will be crucial if companies from Mainland China and Hong Kong are to avoid falling foul of compliance issues — both at home, as domestic regulation increases, and in overseas markets where tougher standards are already in place. And some organizations are determined to act. “This is no ambiguity here,” says one Mainland Chinese respondent. “We have set preferences and our whistleblower investigating teams know the protocols.”

This increase in prominence and use of whistleblowing programs is reflected in our survey results.

74%

A significant majority of companies recorded an increase in the number of whistleblowing complaints compared to the previous year

9%

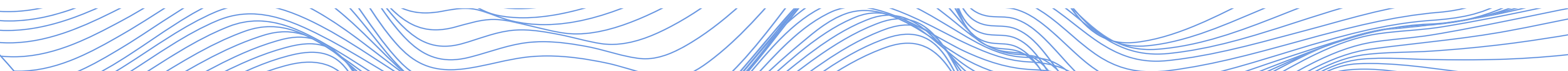
Responded that they had a decrease in the number of complaints

17%

Stated that the number of complaints stayed the same

However, there is mixed sentiment amongst corporates as to whether the growth of whistleblower programs is a positive development.

For those who receive whistleblowing complaints in Mainland China, almost three quarters (**72%**) consider that their organization has received reports that are vexatious or prompted by self-preservation. This is **30%** higher than the average of respondents surveyed, which sits at **42%**.





5.2 FINANCIAL INCENTIVES

Mainland China has recently introduced financial incentives to whistleblowers in certain circumstances. There is some scepticism in relation to whether these financial incentives will impact the integrity of a whistleblowing program.

In 2019, Mainland China called for governmental agencies to establish and promote whistleblowing programs. In recent years, various government agencies have issued specific rules on whistleblowing programs in their respective areas. As noted above, the MOF and SAMR have recently introduced the "Interim Measures for Rewards for Whistleblower Reports of Major Violations in the Field of Market Regulation". These provide for financial rewards of up to RMB 1 million for whistleblowers.

A number of respondents from Mainland China indicated that financial incentives would increase the number of false complaints:

“ We would be encouraging more false claims by providing financial incentives. People would try and take advantage of the ways to earn some extra cash, especially ones that do not mind how they affect others.

“ Financial incentives could play a part in whistle-blowing. There would be more reports. However, people could use the whistleblower policies in the wrong way, and only make claims that favour them.

However, some respondents from Mainland China did consider there could be benefits:

“ Encouraging whistleblowing can do a lot of good for the company. We can deal with the unknown issues in a streamlined way. People who have refrained from reporting will come forward.

“ When people are taking a risk of reporting any major incidences of misconduct, they ought to be rewarded for their bravery. They will be encouraged to make further reports when necessary.

“ These Interim Measures are part of a concerted effort to reduce misconduct in the market, and particularly in those industries which have traditionally been difficult to monitor, but which have significant interactions with the public (e.g. healthcare and food & beverage industry). Through introducing financial incentives and whistleblower protections, the aim is to encourage those who are aware of serious misconduct to come forward.”



Vivian Wu

Partner, Beijing, FenXun Partners *

* FenXun established a joint operation office with Baker McKenzie in China as Baker McKenzie FenXun, which was approved by the Shanghai Justice Bureau in 2015.



Section 6: Market Spotlight on Japan

6.1 PROTECTING WHISTLEBLOWERS

In Japan, amendments have been proposed to the Whistleblower Protection Act which include a mandatory obligation for companies of a certain size to establish a whistleblowing system with the aim of ensuring the protection of whistleblowers.

The amended Act aims to strengthen internal whistleblowing systems and protection for whistleblowers in order to encourage them to come forward. This is in line with developments in whistleblower protection law and regulation of each country, including the EU Whistleblower Protection Directive.

Survey responses highlight several areas where amendments have taken operational effect in terms of confidentiality, job protection and formalized support.



Confidentiality

Consent Language

88% of Japanese respondents indicate that consent language is included in the whistleblowing reporting system in order to maintain the confidentiality of a whistleblower's identity.

This is **18%** higher than the average across respondents from all jurisdictions surveyed.



Secure Storage

More than three-quarters (**77%**) of Japanese respondents indicate that paper and electronic documents relating to whistleblowing reports and investigations are securely stored, higher than the **68%** average from all respondents.



Job Protection

Over the past three years **73%** of Japanese respondents indicate that the organization has arranged for alternative employment arrangements (e.g. change of role at the same level or working from another location etc.) in order to protect whistleblowers from detriment, victimisation or retaliation.

This is **16%** higher than the average across respondents from all jurisdictions surveyed.

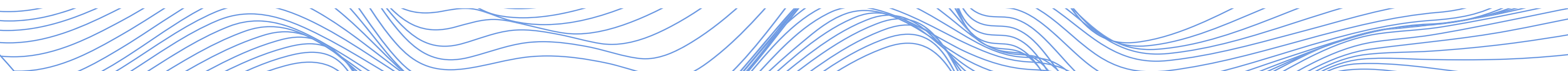
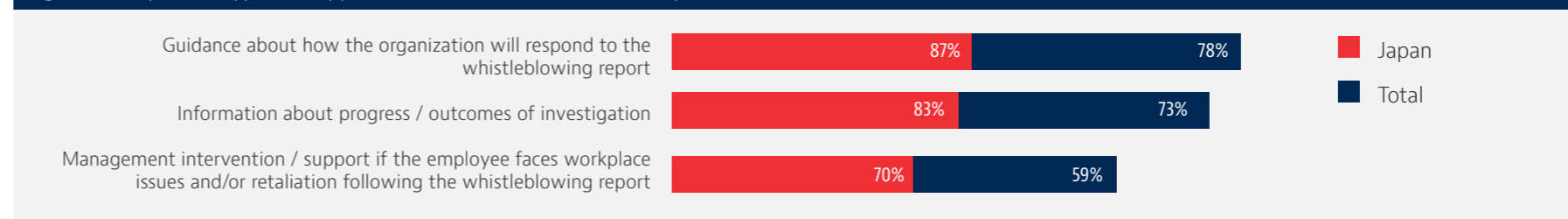


Formalized Support

Survey respondents from Japan indicate strong formal support with regard to whistleblowing.

The graph below shows the top 3 types of support offered to whistleblowers in Japan — all of which bench higher than the average statistic across all jurisdictions surveyed.

Figure 12. Top Three Types of Support Offered to Whistleblowers in Japan vs. Total





6.2 FOCUS ON ESG

Growing attention to ESG and sustainability issues sees **40%** of Japanese respondents indicate that whistleblowing complaints have included a breach relating to ESG issues. This is **7%** higher than the average across all respondents. This is reflected in various laws such as the [Act on Promotion of Global Warming Countermeasures](#) and [Japanese Corporate Governance Code](#).

Such efforts are reflected in the attitudes towards ESG and sustainability vis-à-vis whistleblowing in Japan.

82%

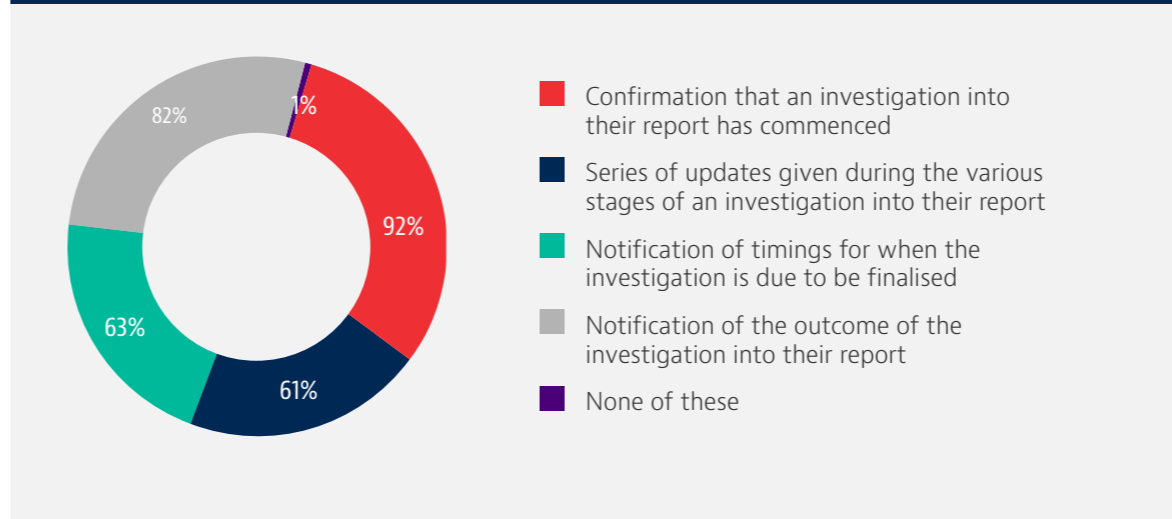
of Japanese respondents indicate that their whistleblowing reporting programme covers breaches of their ESG or sustainability policy, as compared to a **60%** average across all respondents.

60%

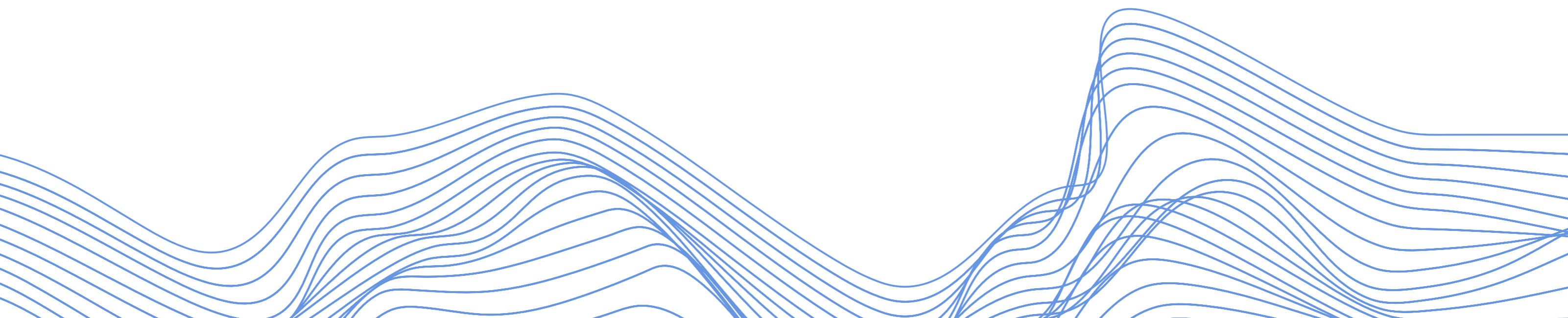
of Japanese respondents say their company prepares a report on their ESG programs, as compared to a **50%** average across all respondents.

6.3 UPDATES TO WHISTLEBLOWERS

Figure 13. Ways Whistleblowers Are Kept Informed (Japanese respondents)



In addition to providing support to whistleblowers, most respondents from Japan indicated that their organization provided updates on the progress of the complaints. Almost all of the organizations (**92%**) confirm to the whistleblower that an investigation is underway and more than three quarters (**82%**) notify the whistleblower of the outcome of the investigation.





Conclusion

While the survey results show that many companies across the Asia Pacific region have stepped up their efforts to keep their whistleblower programs and policies up to date, there is more that can be done. Companies need to be confident their programs comply with evolving regulation, and go beyond the bare minimum to embed a “speak up” culture across their organizations. Failing to do so could expose organizations to regulatory, reputational and financial repercussions.

Whistleblowing programs need to adapt and evolve with the legal and regulatory landscape, and it is vital that management implements a regular review of those programs. For example, in line with the growing focus on ESG compliance, has resulted in organizations bringing such matters within the scope of their whistleblower programs.

The tone from the top will often be the deciding factor on whether or not a whistleblowing program will be successful. Leadership must take ownership of — and invest resources in — their organization’s whistleblowing program to give it every chance of success, including:



Regulatory Awareness

Changes to legal regimes and requirements regarding whistleblower protections are creating new risks and compliance challenges, particularly for multinationals operating in Asia Pacific where a one-size-fits-all approach to whistleblowing policies and procedures may no longer be possible.



Organized Approach

Regular training, employee surveys and user-friendly flow diagrams are all tools which some companies are adopting to assist with the challenge.



Renewing Confidence

Trust-building between employers and employees is essential to a complete and effective whistleblower program.

This reduces the incidence of whistleblowers going outside the company to report wrongdoings, either directly to regulators or via the media, rather than bring matters to the attention of officers and executives who can make the necessary corrections.

Robust confidentiality and anti-victimization measures are necessary for success.



Reality Check

Apparent differences in approach and commitments to new whistleblower requirements shows that some companies in Asia Pacific may be more compliance-ready than others.

Consulting advisors with expertise on these issues can help provide an additional layer of support when getting matters right means getting and staying ahead.

 [Explore More](#)

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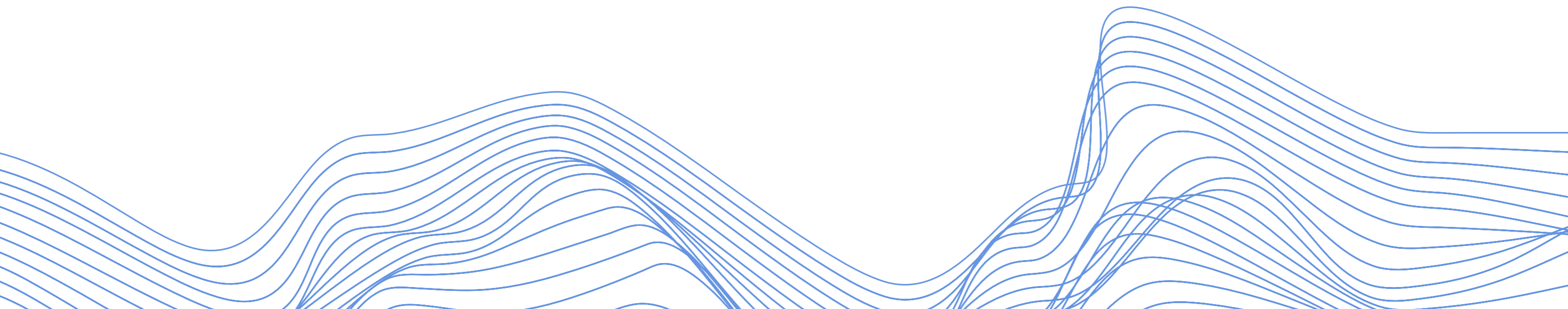


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