

1. Should the legal department be involved in addressing major public relations issues? When, how, and how should legal considerations be weighed in the balance?



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2. Recent press coverage has highlighted the issue of whether advice of in-house counsel is privileged under EU law. How does this uncertainty impact the ability of in-house counsel to participate in business decisions?



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3. Is compliance a legal function or business function -- or both? What are the implications of different approaches for the efficacy of compliance policies? For maintaining privilege?



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4. While most counsel (both in-house and outside) will say that they have input on business decisions, what is the reality on the ground? Do reporting structures reflect a narrow or expansive role for lawyers? Same question re training and promotion. Do lawyers have input at the Board level on business (vs. legal) decisions?



Strategic Management: How Does Management See Our Role?

Daniel Shook

Chief Financial Officer, Borealis AG

Association of Corporate Counsel Europe – Annual Conference

Vienna, 30 May – 1 June 2010



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SHAPING *the* FUTURE *with* PLASTICS

Role of In-house counsel

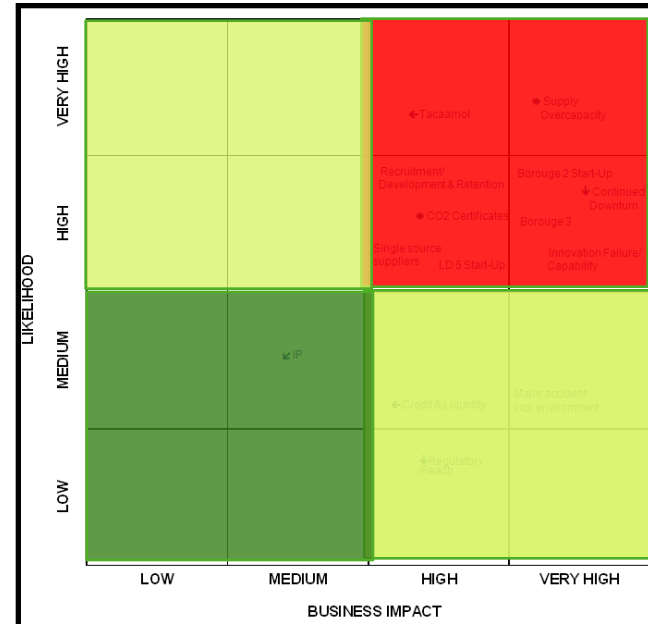
- First, a question...
 - What do you call 50 **Bankers . . .** ???
 - How many **Bankers** does it take ... ???
- You're a key enabling function
 - Don't be the problem. Help Solve it!
 - The business wants it « tangible »
- Be a business partner. We're in it all together 100%.
 - Perception is reality
- The best measure of success – Pull vs. Push



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A Critical Role in Risk Management

- Drive governance to flow out issues
 - Ensure it includes some « blank sheet » activity
- Magnify the benefit by:
 - Participating in the debate at all levels
 - Partner up with your allies
- Be sure to look (way) out on the horizon
- Sometimes just the dialogue is the most valuable thing.



Finding the right balance

- Demonstrate that you understand the need to manage risks within company means
 - Risk-free companies will generate risk-free returns
- We are all here for the (long-term) bottom-line!



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No Comment

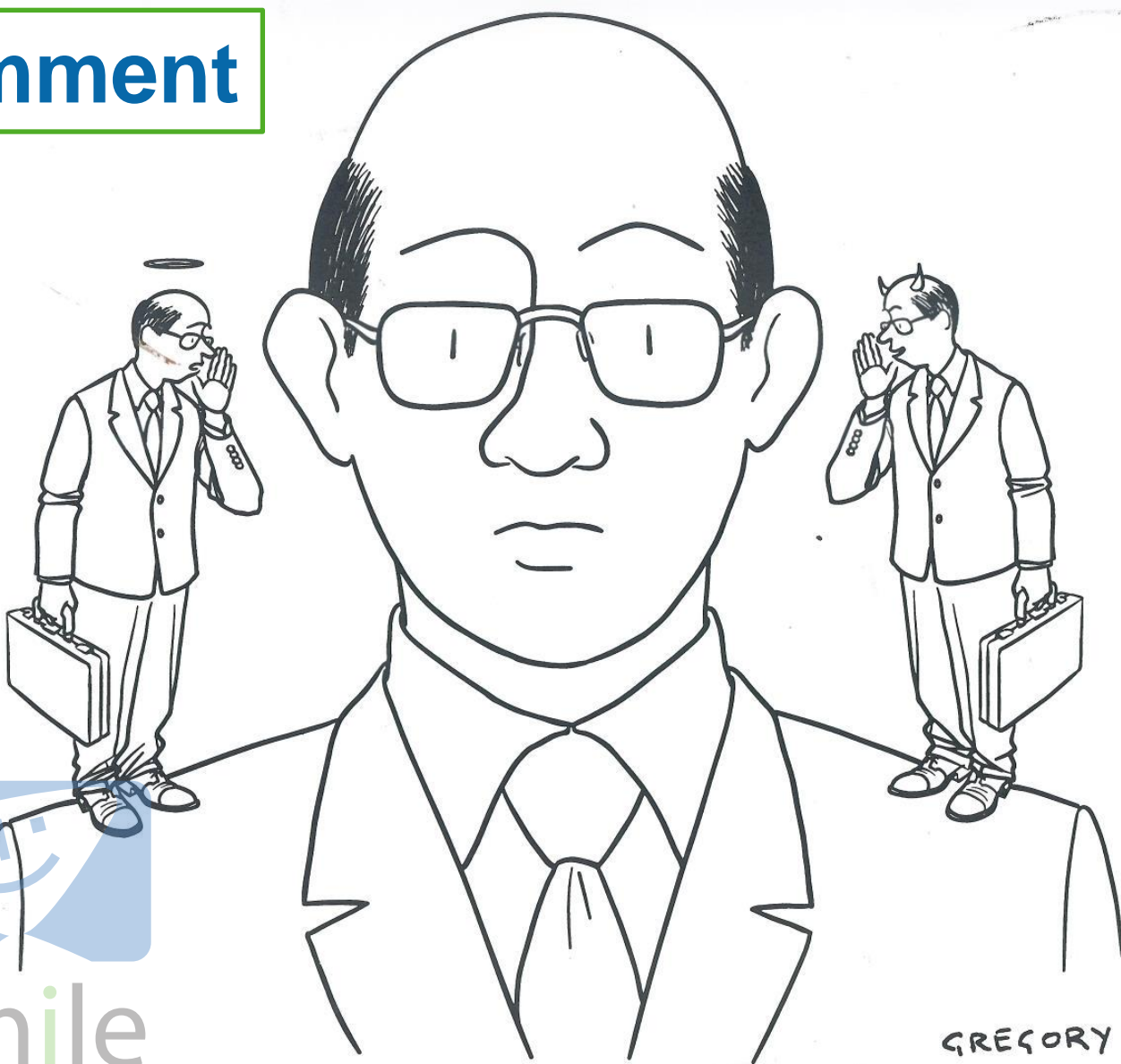


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“Run it by legal.”

“Run it by accounting.”

GREGORY



Thank you!

Daniel Shook

31 May 2010



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"Gouverner c'est prévoir"

In-house counsels' role from an external lawyers' perspective

Detlef Hass, Hogan Lovells

31 May / 1 June 2010

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- What are the largest consumers of GC's time?
- Where does the GC stand in corporate governance?
- What if he is in the line of fire?



- What can he do?

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Risk management

Which risks

- corporate risks
- legal risks FOR
 - company and management
 - GC / CCO

GC's role

- re-active
 - pro-active
- 

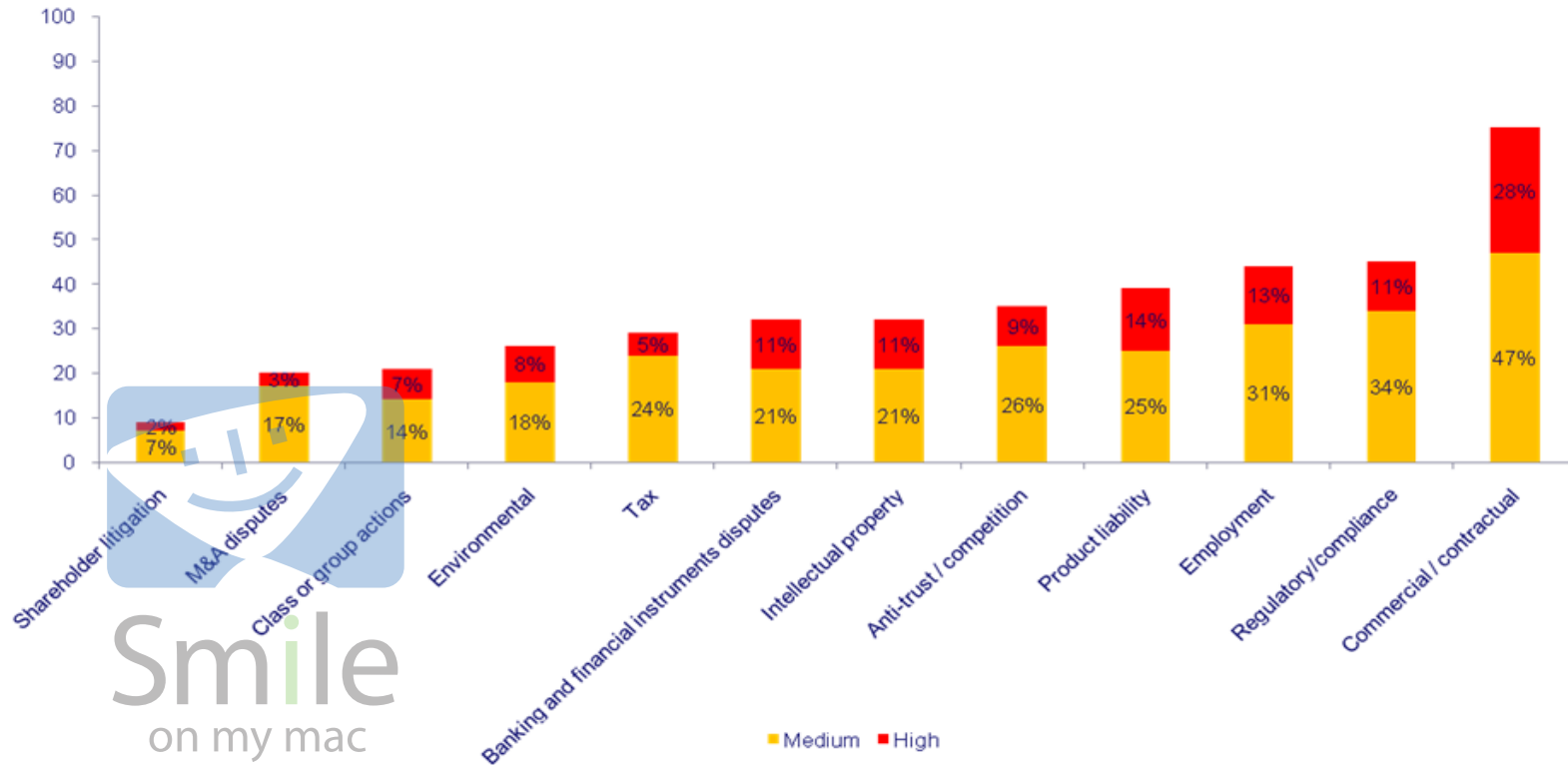
In-house lawyers spend more time on disputes than on any other areas



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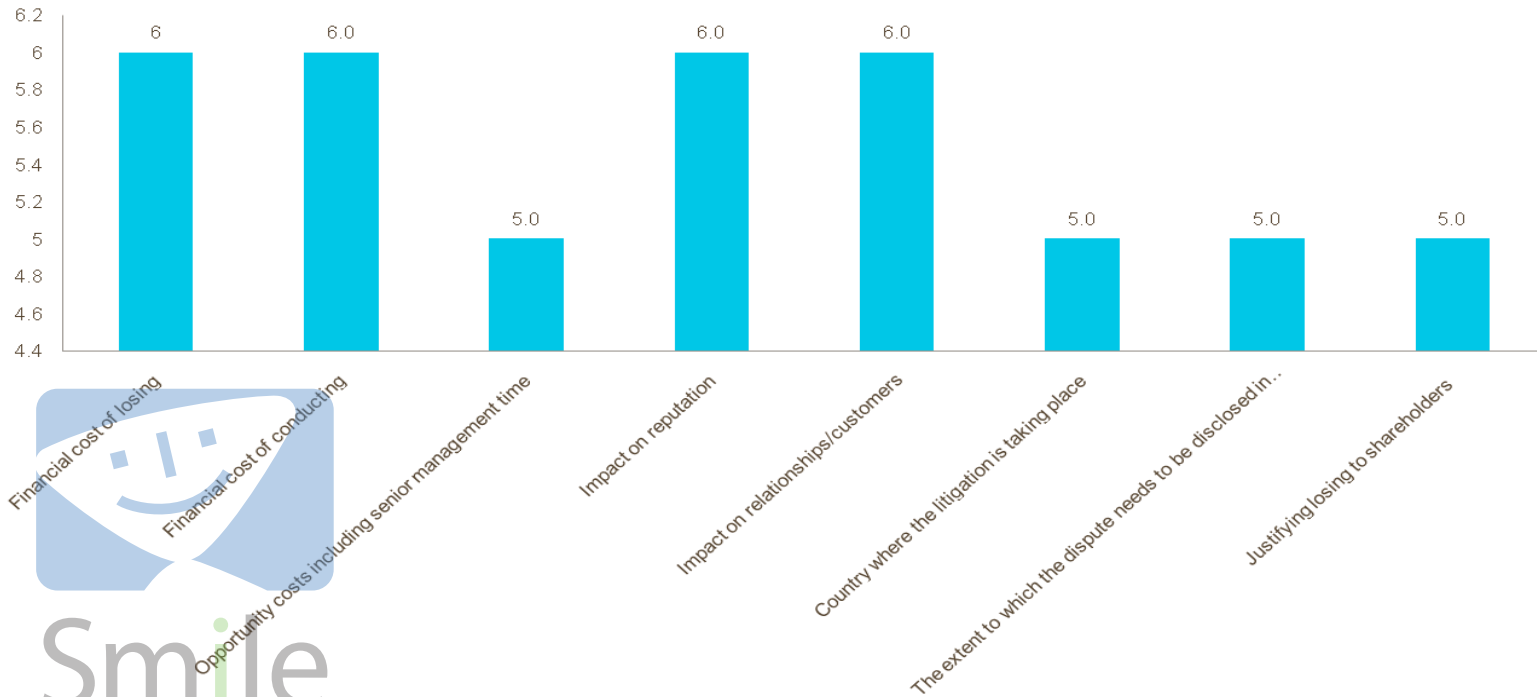
See Lovells DR study "The Shrinking World (2008).
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Only 3% of disputes are with regulators but they represent the second biggest risk



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Maintaining relationships and reputation as important as financial considerations



Skala: 1-10 (1 = sehr wichtig, 10 = kaum wichtig)

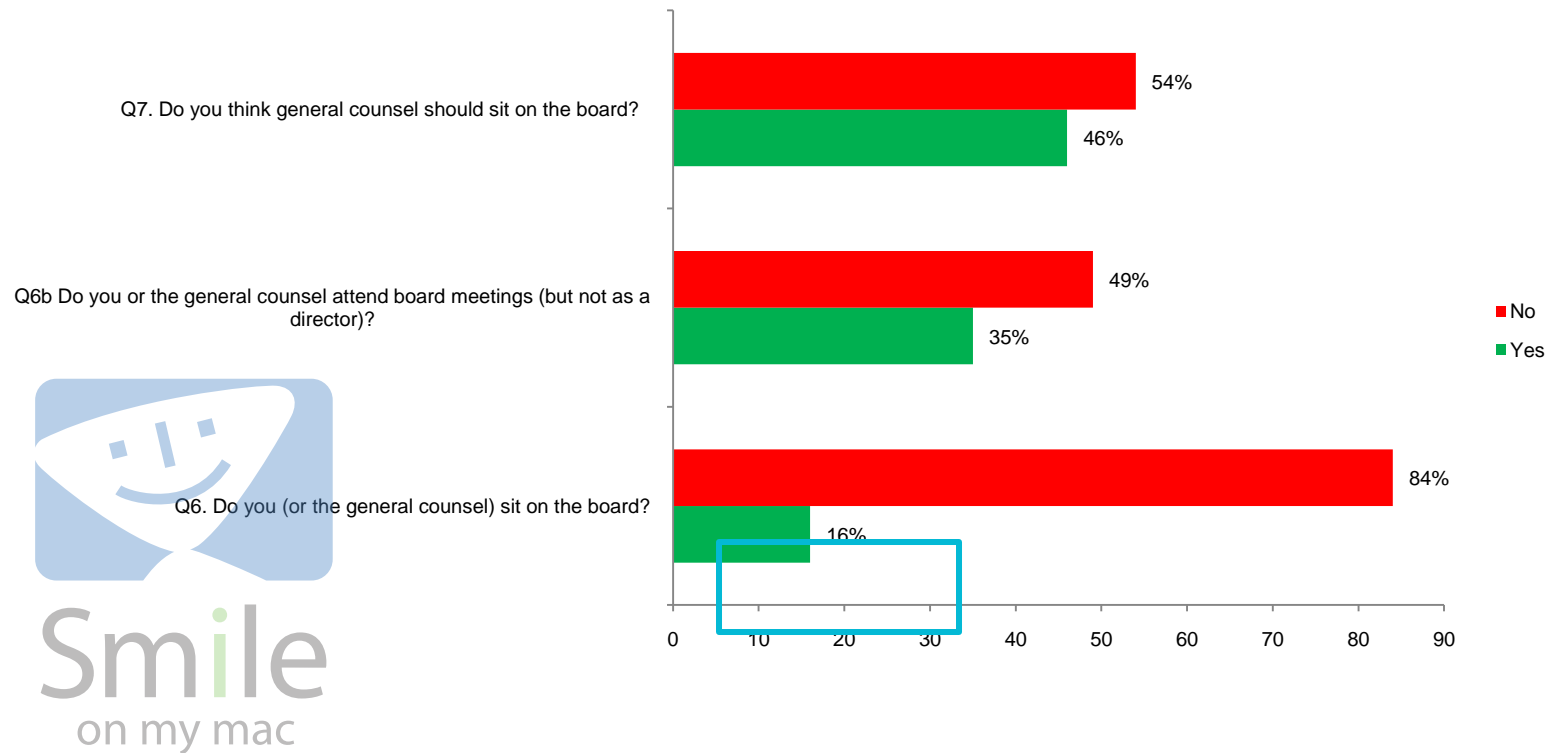
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General Counsel on Board of Directors

- Is it standard?
- Is it desirable?



Nearly half think the GC should sit on the board, but only 16% do now



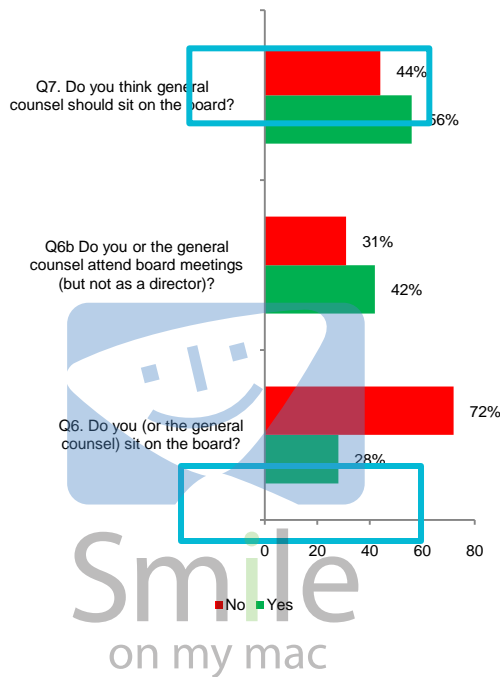
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Q6: Base: All respondents (180)
Q6b: rebased to 180 from 152
Q7: All respondents (180)

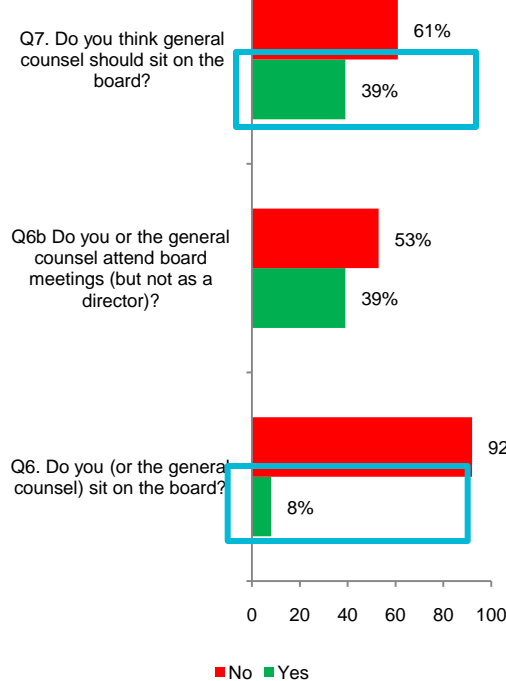
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Huge variety in the board exposure of GC across Europe

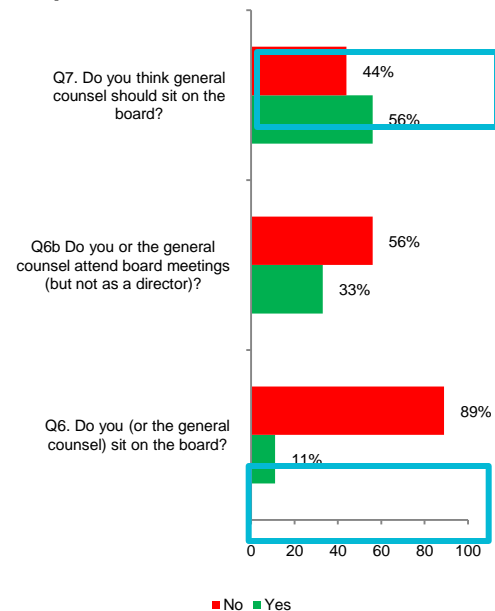
UK has the highest board attendance and further aspirations



Italy has the lowest board attendance and the least ambition to sit on the board



The Netherlands has low board attendance but is determined to improve

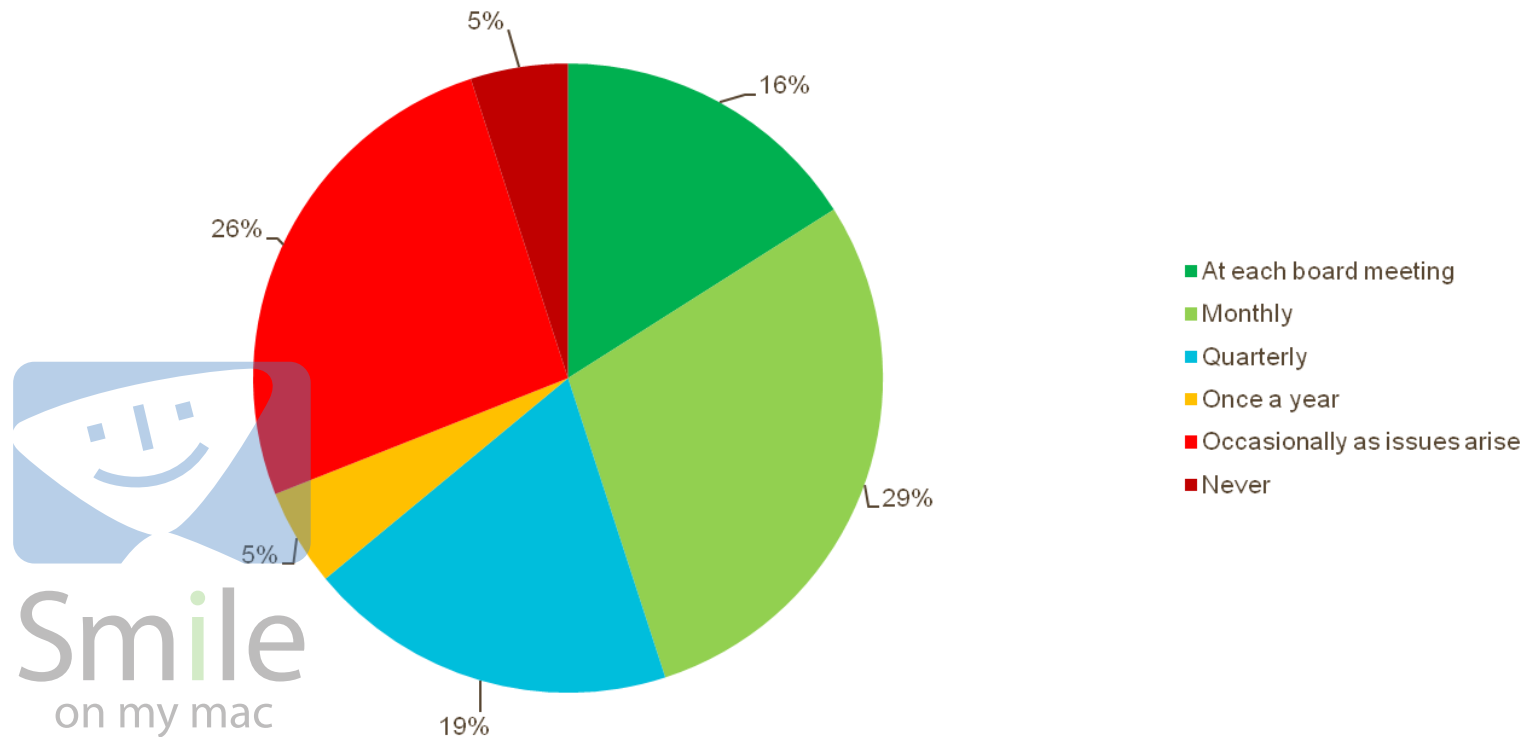


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Base: All in Netherlands (36)

Frequency of reporting to the board

Overall summary



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But there is more to it....

- What if the GC / CCO get's into the line of fire?



Criminal risks for GC / CCO are increasing

Chief Compliance Officer with position of guarantor

- BGH 17 July 2009 – 5 StR 394/08: CCO is obliged by statutory law to actively prevent violations of third parties by breach of statutory compliance rules such as anti-corruption or product safety provisions, if he is aware of any breaches (Sec. 13 lit 1 StGB). He is at risk of criminal prosecution, if he fails to prevent violations of e.g. anti-corruption law.
- Determination of his duties under the employment contract or any agreed job description otherwise
- Prevention of the statutory violation must be possible and not unreasonable for the CCO
- Intent (e.g. corruption, misappropriation) or negligence (manslaughter)



How would that play out elsewhere?

- Spain
- France
- Italy
- US



What to do?

- Looking ahead yourself..
- Did you foresee the financial crisis in Summer 2007?
- ...in August 2008?
- Did you get a call from your adviser thereafter to brain storm what to do next?
- Did you foresee the Eyjafjallajökull to erupt and impact your business



...and the answer is

What if a large financial institution with global business would

- instruct its panel firms
- to look ahead for the big picture issues
- and report
- for the client to digest and consider to take it from there...

It all comes down to procedure and compliance. Welcome!

Dr. Detlef Hass

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