



Littler Mendelson Whistleblower Survey

NOVEMBER 2011

EXECUTIVE SUMMARY

Key findings and themes from Littler Mendelson's Whistleblower Survey include:

Companies are increasingly concerned about the potential impact of whistleblower claims on their organizations; however, the level of concern has not fully peaked as companies are still adapting to the new regulatory environment created by Dodd-Frank.

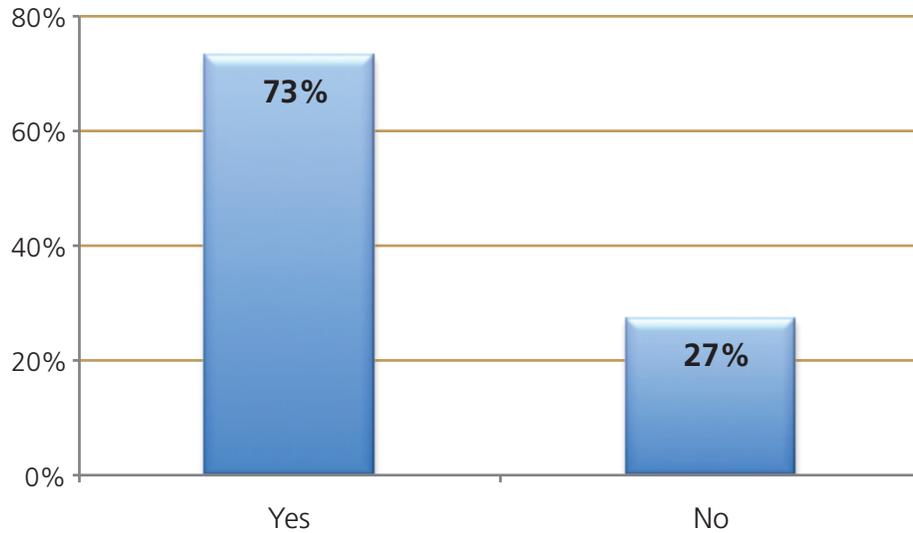
- 73% of respondents identified whistleblowing and retaliation as emerging risk areas and 96% are either very concerned or moderately concerned about potential whistleblower claims.
- Although an already high percentage of respondents (45%) indicated that their company had experienced a whistleblower claim in the last 12-24 months, 67% anticipate whistleblower claims to increase within the next 12-24 months.
- While respondents are undoubtedly concerned about whistleblowing activity and are anticipating an increase in claims, the financial incentives created by Dodd-Frank are relatively new and we anticipate the level of concern will rise in the next 12-24 months as companies continue to feel the impact of these changes.
- Respondents also expressed concern that provisions within Dodd-Frank could undermine their compliance programs. Only 12% of respondents indicated this was not a concern, while 51% were concerned and 37% remain unclear as to what the impact will be on their current procedures.

Companies are somewhat confident about their ability to protect against whistleblower claims, but are taking steps to better prepare and train management on compliance with government regulations and proper handling of whistleblower claims.

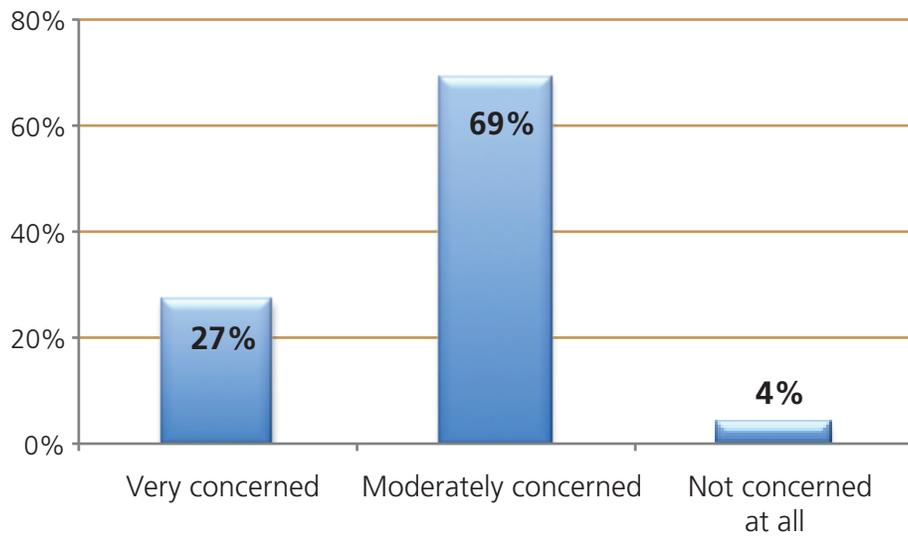
- The majority of respondents (65%) believed that their companies are only moderately prepared to handle whistleblower claims and 8% are not prepared at all. Furthermore, only 54% were confident that executives in their organizations understand unlawful retaliation concepts and know not to engage in such conduct, while 32% were not confident and 14% did not know.
- 84% of respondents indicated their companies have taken preventative steps to protect against unlawful retaliation claims. In addition, whistleblower and/or retaliation-related training appears to be prevalent at the companies surveyed, with 41% conducting training in the next 12 months, 18% planning to do so and 27% considering implementing such training.
- Respondents from LargeCap companies expressed greater concern about whistleblower claims, with 73% anticipating claims will increase within the next 12-24 months (compared to 66% of all respondents). Not surprisingly, a higher percentage of respondents from LargeCap companies indicated they've taken preventative steps to protect against unlawful retaliation claims (93%) and 59% are conducting training in the next 12 months.

Little Mendelson Whistleblower Survey Analysis

Has your company identified whistleblowing and retaliation as emerging risk areas?

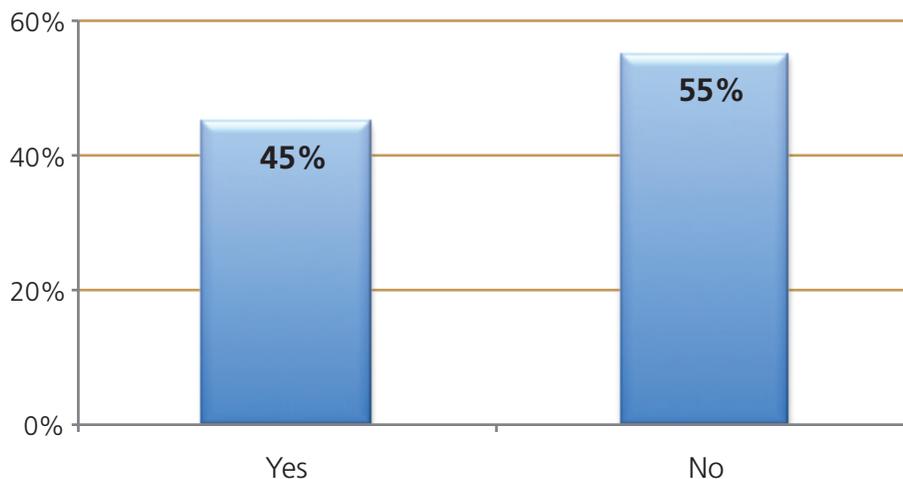


How concerned are you about potential whistleblower claims?

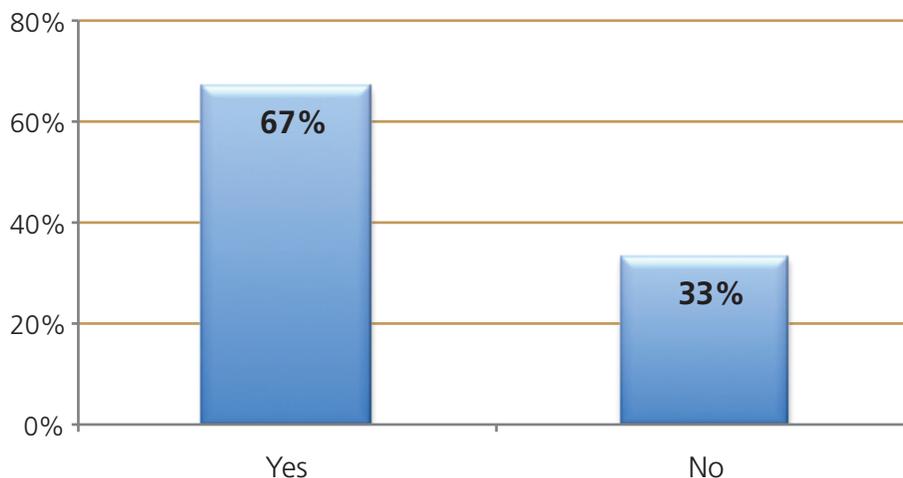


- Nearly three-quarters of respondents identified whistleblowing and retaliation as emerging risk areas. Of the 27% whose companies have not identified these areas as potential risks for their organizations, 50% indicated that they should consider doing so.
- An overwhelming percentage of respondents (96%) are either very concerned or moderately concerned about the impact of potential whistleblower claims.
- While respondents are undoubtedly concerned about the impact of whistleblower claims, it is somewhat surprising that the level of concern was not higher with the new financial incentives created by Dodd-Frank now in effect. However, the legal changes and shift in social consciousness are still relatively new and the level of concern will likely increase in the next 12-24 months as companies continue to feel the impact of these changes.

Has your company experienced a whistleblower claim in the last 12-24 months?

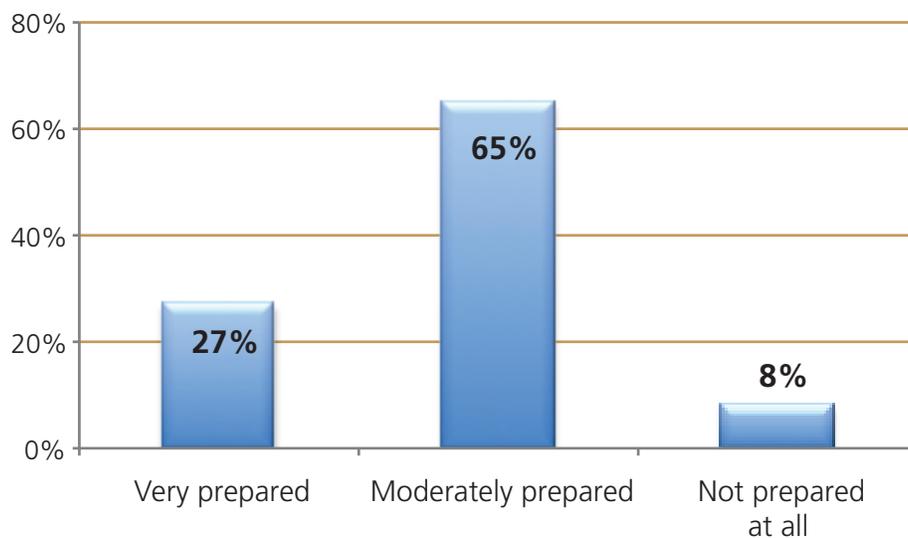


Do you anticipate whistleblower claims to increase within the next 12 to 24 months?

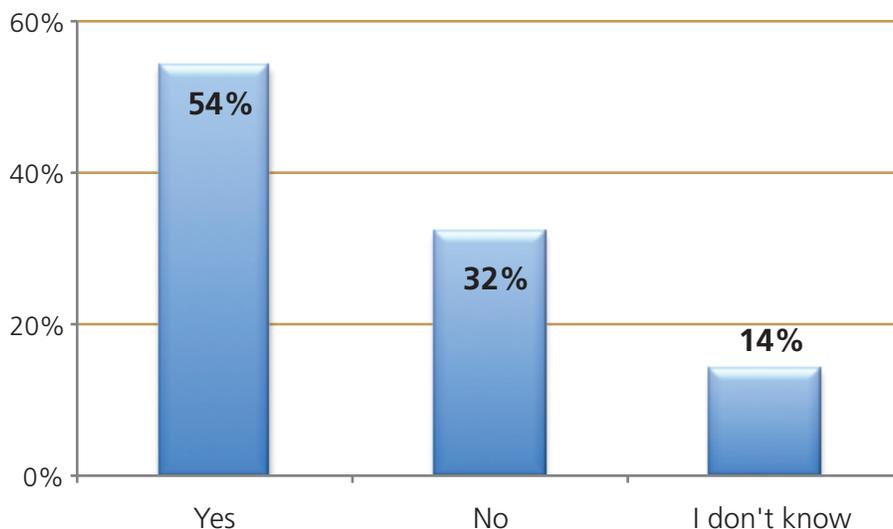


- Although an already high percentage of respondents (45%) indicated that their company had experienced a whistleblower claim in the last 12-24 months, 67% anticipate whistleblower claims to increase within the next 12-24 months.
- The level of concern respondents expressed regarding potential whistleblower claims appears to be driven by the expectation of claims in the near-term as 100% of the respondents who indicated being “very concerned” expect claims to increase within the next 12-24 months.
- With the SEC whistleblower rules having taken effect in August 2011, respondents seem to be anticipating an increase in claims as that program develops.

How prepared is your company to handle whistleblower claims?

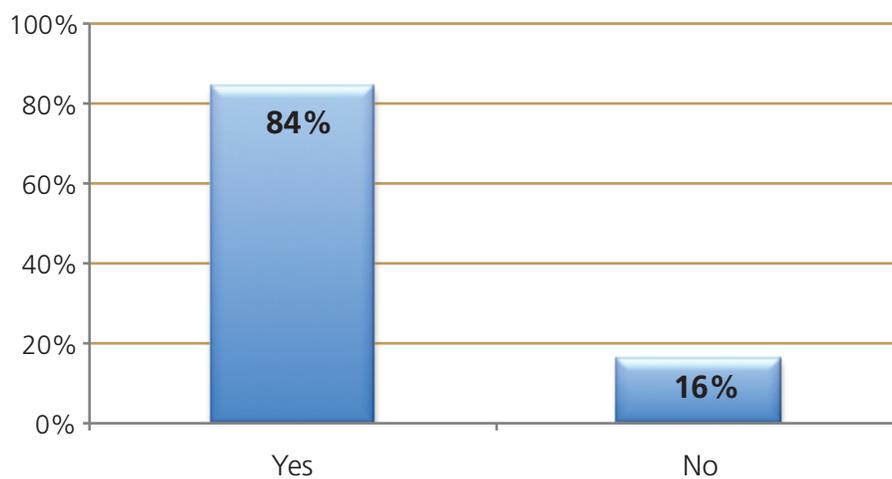


Are you confident that supervisors/managers in your organization understand unlawful retaliation concepts and know not to engage in such conduct?

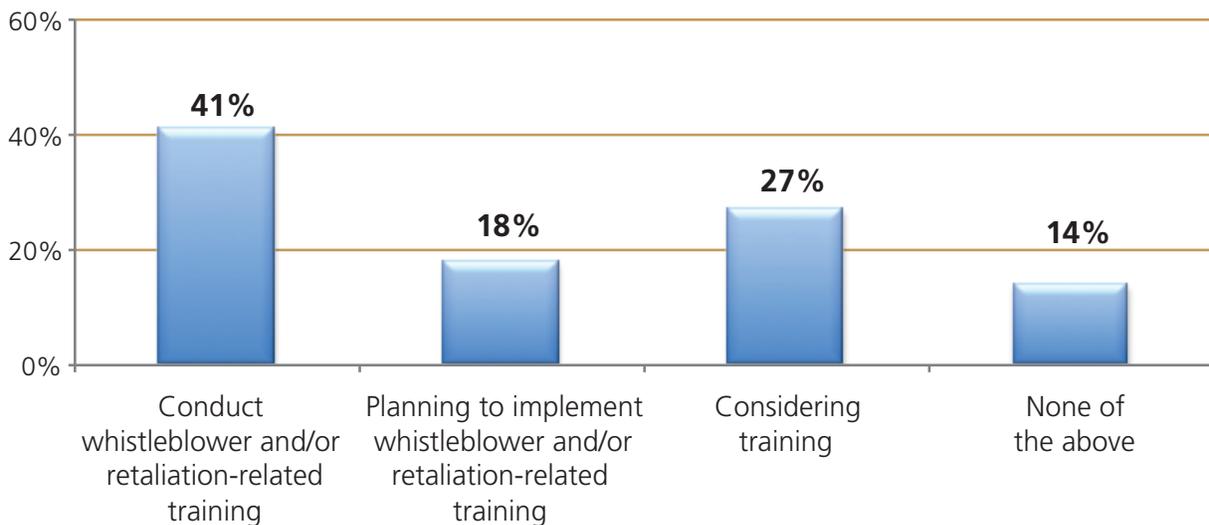


- The majority of respondents (65%) believed that their company is only moderately prepared to handle whistleblower claims and 8% are not prepared at all. Furthermore, only 54% were confident that executives in their organization understand unlawful retaliation concepts and know not to engage in such conduct, while 32% were not confident and 14% did not know.
- With a whistleblower’s credibility and ability to mount his or her case manifestly increased if internal compliance programs are not in order, it is critical that companies train management on compliance with government regulations. In addition, supervisors must be prepared to properly handle whistleblowing claims as they arise in the workplace.

Has your company taken any preventative steps to protect against unlawful retaliation claims?

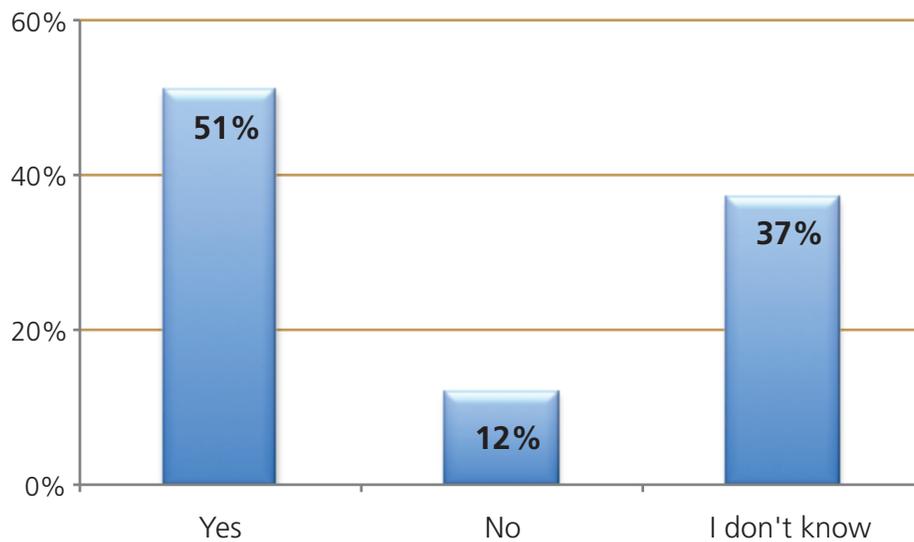


In the next 12 months, my organization is doing one of the following:



- The level of confidence respondents expressed regarding their company’s ability to protect against whistleblower claims suggests that organizations are taking steps to better prepare.
- Eighty-four percent of respondents indicated their company has taken preventative steps to protect against unlawful retaliation claims. In addition, whistleblower and/or retaliation-related training appears to be prevalent at the companies surveyed, with 41% conducting training in the next 12 months, 18% planning to do so and 27% considering implementing such training.

Are you concerned about provisions within Dodd-Frank undermining your current compliance programs?



- Fifty-one percent of respondents expressed concern that provisions within Dodd-Frank could undermine their compliance programs. Only 12% of respondents indicated this was not a concern, while 37% remain unclear as to what the impact will be on their current procedures.
- The Sarbanes-Oxley Act of 2002 (“SOX”) required companies to strengthen their internal compliance procedures and companies have continued to refine these programs based on the ongoing regulatory focus on improving corporate governance. However, Dodd-Frank imposes more stringent requirements for internal compliance programs than SOX, making it necessary for companies to modify their programs to be better prepared for new SEC regulations and increased whistleblower exposure.

Methodology

In October 2011, Littler Mendelson distributed a survey to a group of senior legal, compliance and human resources executives at publicly traded or highly regulated companies. The survey was completed by 51 respondents.

By Standard and Poor's definitions, 60% were from LargeCap, 26% were from MidCap and 14% were from SmallCap companies. The vast majority (92%) indicated their organizations were based in the United States.

Respondents represented organizations in a wide-variety of industries, including: financial/professional services (27%), manufacturing (18%), energy (10%), technology (10%), retail (10%), transportation (8%) and healthcare (2%).

The survey coincided with Littler's Whistleblower Summit held in Boston on October 24-25, 2011. Many of the respondents who completed the survey attended the event.

Due to rounding, all percentages used in all questions may not add up to 100%.