

A Perspective on the Private Markets

Private markets professionals speak out on their strategies for 2023 and their legal process pain points

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Executive summary

Ontra analyzed proprietary data related to the number of NDAs private equity, venture capital, and credit investors negotiated during the fourth quarter of 2022. We combined these findings with survey responses from 400 professionals across the private equity, private credit, real estate asset management, and infrastructure investment spaces to identify notable trends from the past year and expectations for 2023.

Our research revealed several key findings.

Asset managers see fewer economic headwinds in 2023.

53% of survey respondents said they expect to face fewer economic challenges this year than they did last year.

That comes despite significant macroeconomic challenges in 2022.

Survey-takers cited rising interest rates as the largest influence on their investment strategies last year, with inflation coming in a close second.

A decline in Q3 and Q4 '22 NDA volume foreshadows decreased M&A activity during the first half of 2023.

Ontra's NDA Volume Index shows NDA volumes declined sharply in the last half of 2022, which signals a likely continued slowdown in the number of deals being done at the start of 2023.

Employees spend a significant amount of their workweek negotiating NDAs, to the detriment of other work.

In our survey, 65% of respondents – who included investment professionals, in-house lawyers, compliance professionals, investor relations professionals, and finance professionals – said they personally spend more than six hours per week negotiating NDAs, and 61% said NDA negotiations were detracting from other strategic work their firm needs to do.

Obligation compliance is a pain point for firms.

Seventy-seven percent of our survey respondents said they worried at least once in the past year about not complying with investor obligations. This fear is driven, in part, by the fact that obligations are typically tracked in spreadsheets or in lengthy written compendia where important details can be overlooked.

In the charts that follow, we'll break down the Ontra NDA Volume Index and the results of our survey, which highlight participants' outlook on 2023 and thoughts on 2022's trends. We'll also dive into what legal process pain points are keeping respondents up at night.



Methodology

Wakefield Research conducted Ontra's survey of 400 professionals across the private equity, private credit/direct lending, real estate, and infrastructure spaces. Respondents ranged from C-level executives to directors across legal, compliance, investor relations, and finance functions. The survey was conducted between Nov. 21 and Dec. 6, 2022. Ontra and Wakefield received responses from 200 people in North America, 100 in the Europe, Middle East, and Africa region, and 100 in the Asia-Pacific region. Results were collected anonymously, and responses are aggregated and not attributable to any one individual. Just over half of respondents worked at firms with \$1.5 billion or more (or local equivalent) under management. Sixty-seven percent of respondents were in private equity, 67% were in private credit/direct lending, 46% were in real estate, and 46% were in infrastructure. Respondents could choose multiple types of funds their firm manages, so numbers do not add up to 100%. The survey has a margin of error of 4.9 percentage points at a 95% confidence interval.

Macroeconomic factors



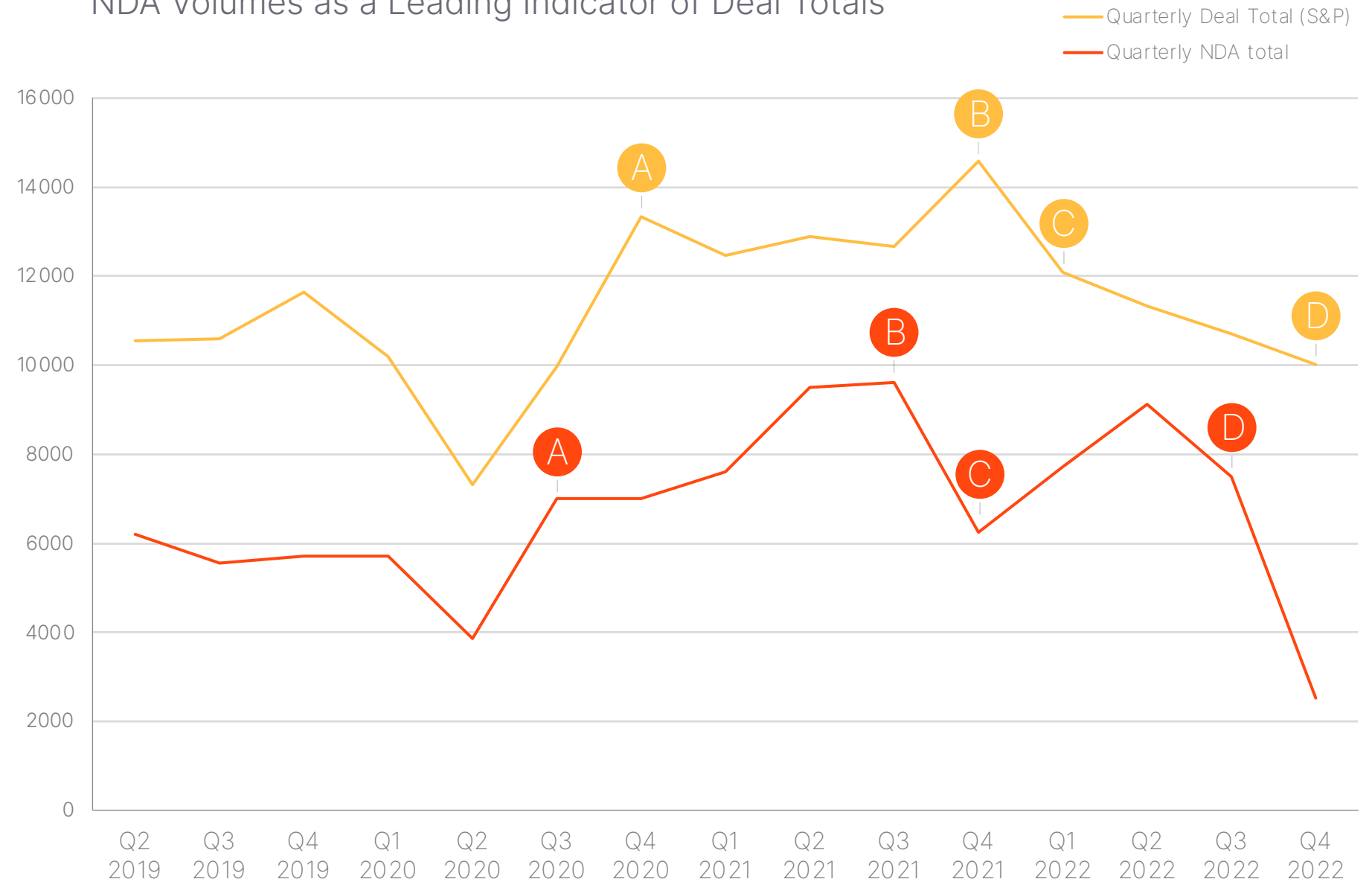


Analysis →

NDA Volume

Ontra's NDA Volume Index anonymizes and aggregates NDA volume data from 43 U.S.-based buy-side private equity, venture capital, and private credit firms. These firms have been Ontra customers for at least three years and represent a mix of small and large firms. Ontra used a time series analysis to test the correlation between the volume of NDAs our legal network has processed for the companies in the index and the volume of deals done in the market according to S&P Global data going back to the start of 2019. The S&P data set includes announced or completed deals between Jan. 1, 2019, and Dec. 31, 2022, where the buyer acquired a majority stake in a company or asset and the buyer's and target's geographic location are disclosed. We found the NDA volume Ontra processed in a given quarter is a leading indicator of M&A volume in the following quarter. The exception is in Q2 2020, when both volumes dropped sharply because of the COVID-19 pandemic. Both started rebounding the following quarter. The S&P data is taken from "[Global M&A by the Numbers: 2022 in Review.](#)"

NDA Volumes as a Leading Indicator of Deal Totals





Does your firm foresee more or fewer economic obstacles in 2023 than you faced in 2022?

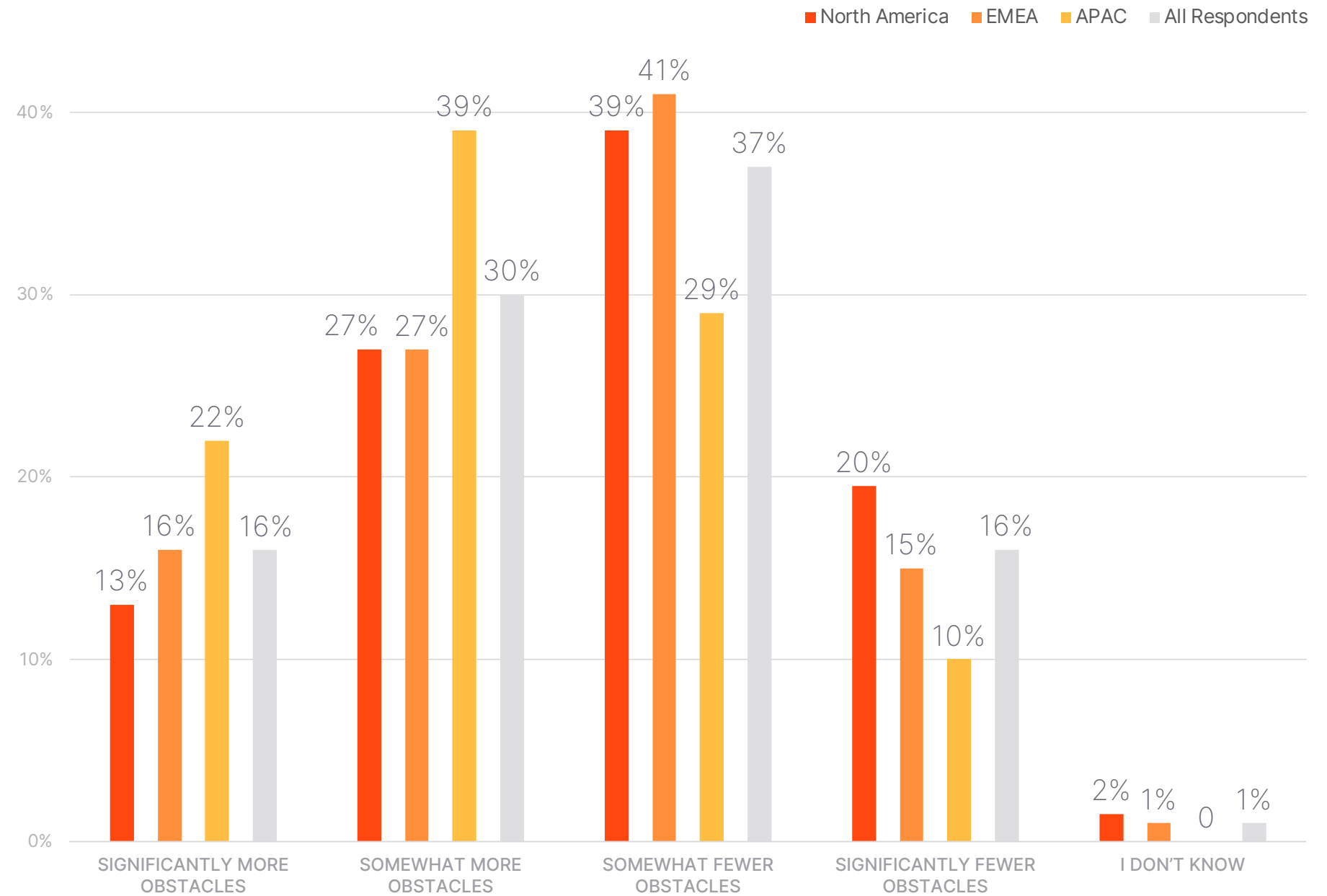
QUICK FACTS

46% foresaw more obstacles

- North America: 40%
- EMEA: 43%
- APAC: 61%

53% foresaw fewer obstacles

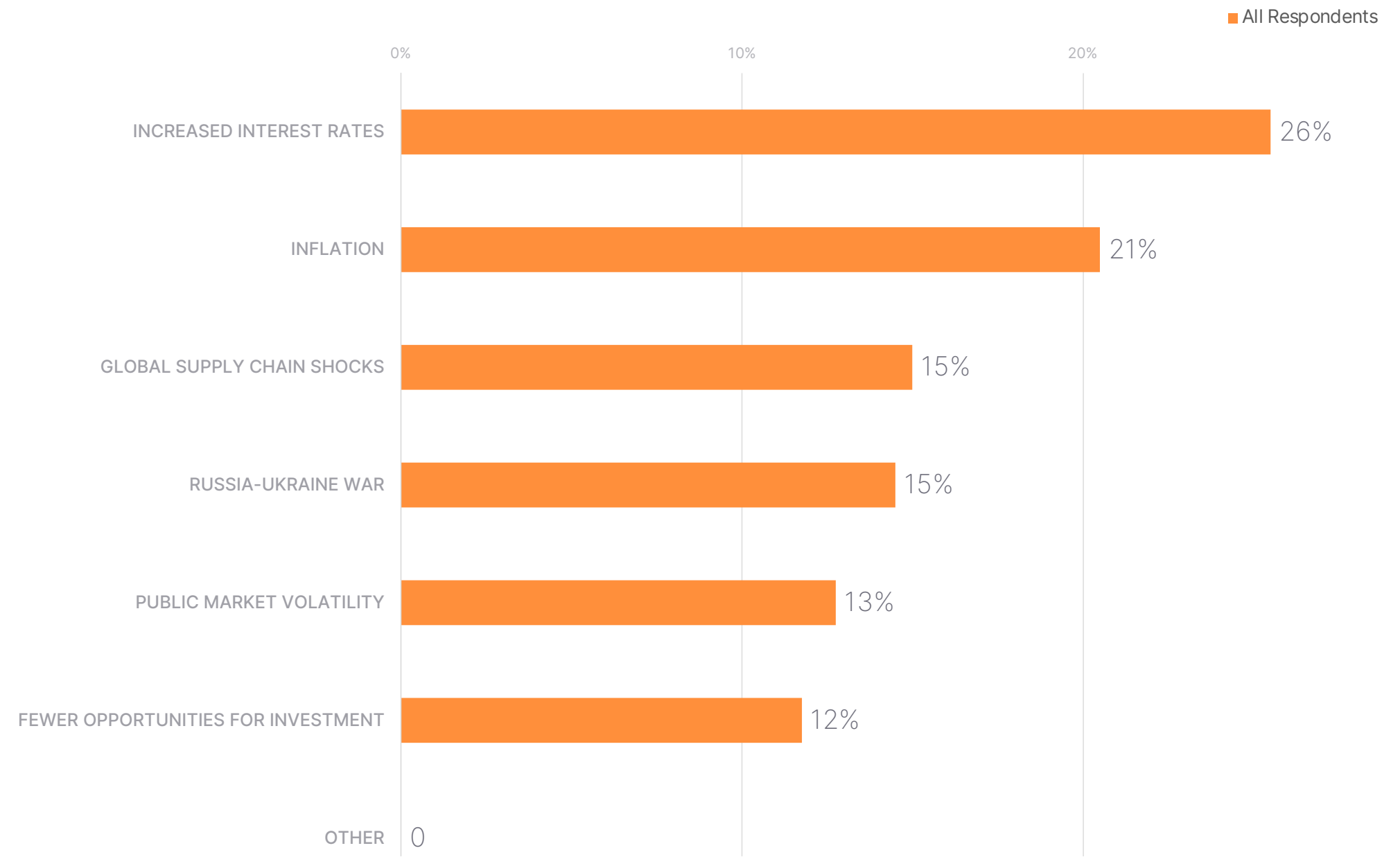
- North America: 59%
- EMEA: 56%
- APAC: 39%



Percentages may not add to 100% because of rounding.



Which of the following external factors had the biggest impact on your firm's investment decisions in 2022?



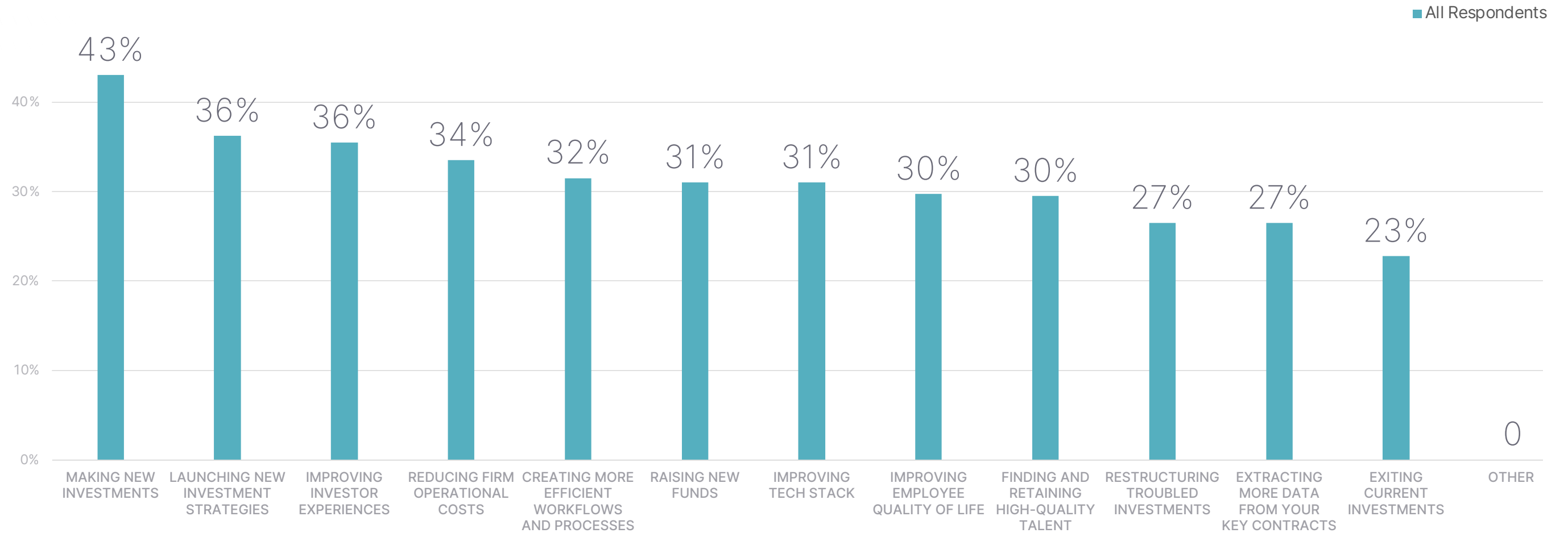
Percentages may not add to 100% because of rounding.

Investment strategies





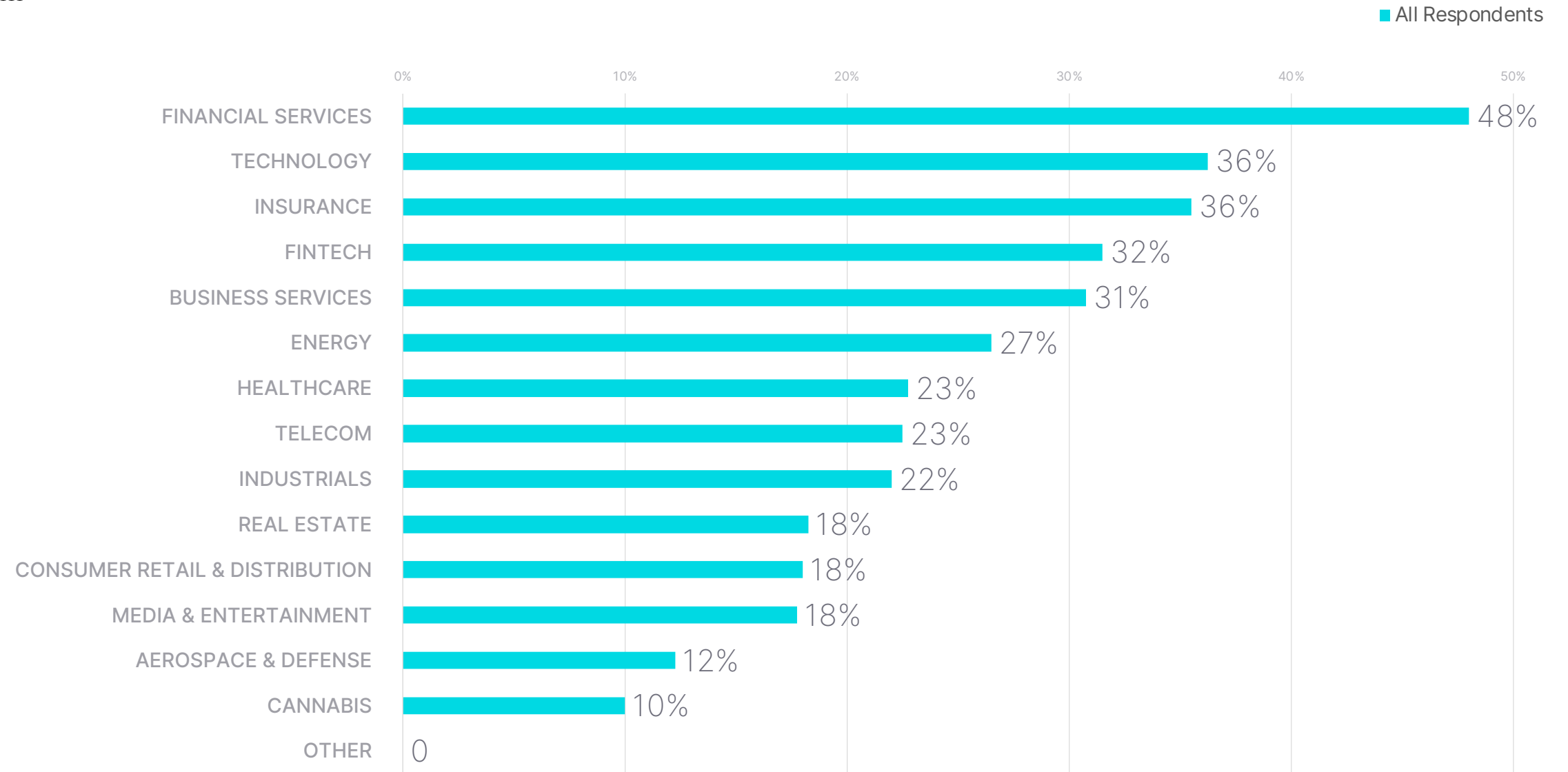
Which of the following are priorities for your firm in 2023?



Respondents could select multiple options — responses will not total 100%.



What industries does your firm plan to focus its investment strategy on in 2023?



Respondents could select multiple options — responses will not total 100%.



Will ESG factor more or less prominently into your investment strategy in 2023?



Percentages may not add to 100% because of rounding.

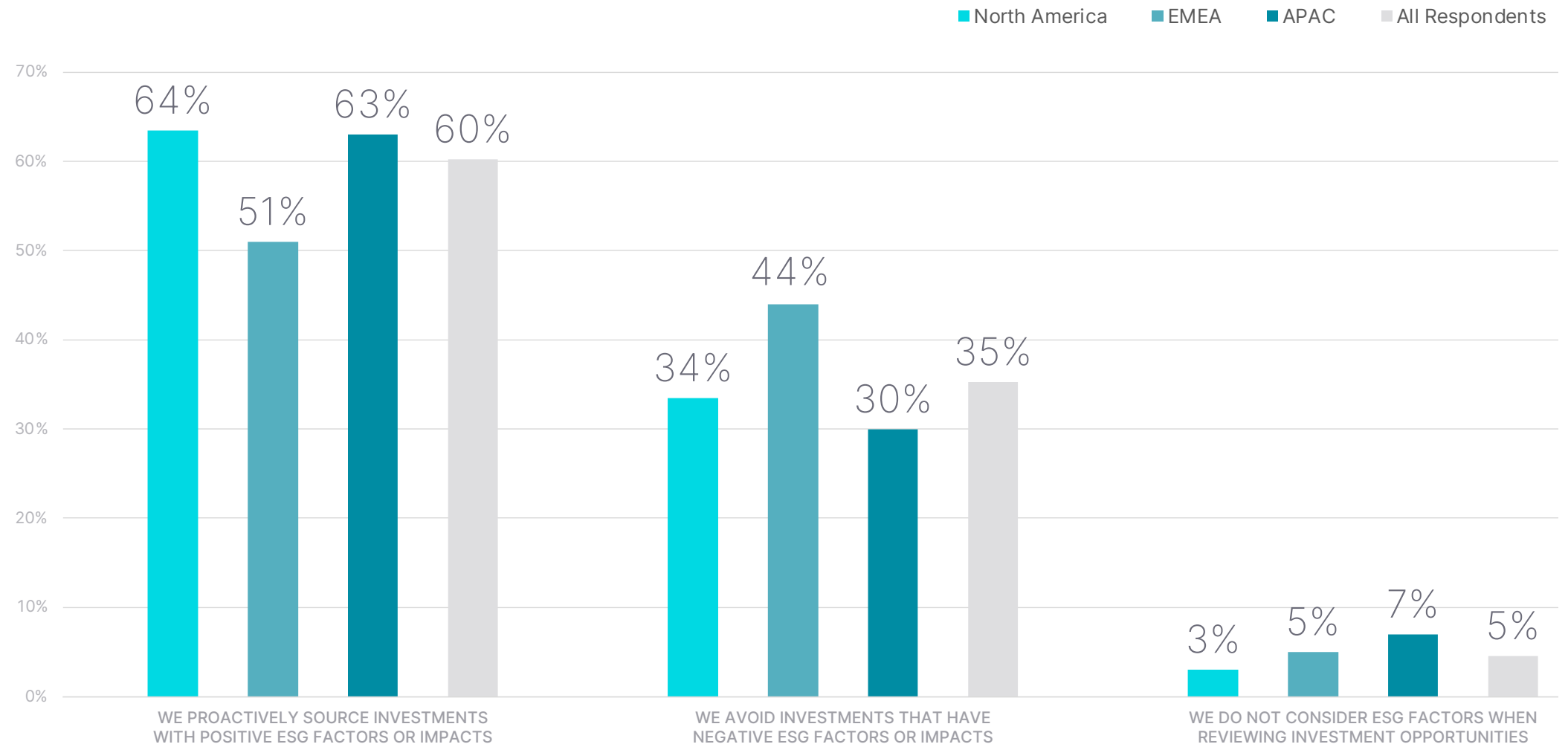
QUICK FACTS

63% say ESG will factor more prominently

About 13% say ESG will factor less prominently



Which of the following best describes your firm's approach to ESG factors when making new investments?



QUICK FACTS

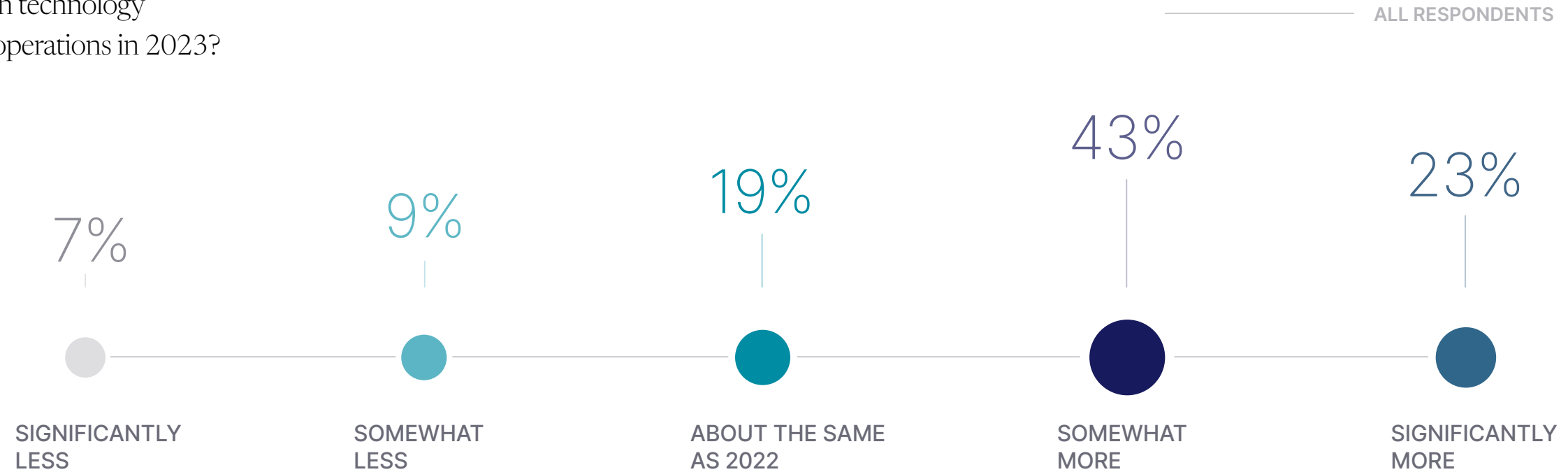
Considers ESG factors when reviewing investment opportunities:

- North America: 97%
- EMEA: 95%
- APAC: 93%
- All Respondents: 96%

Percentages may not add to 100% because of rounding.



Compared to 2022, which of the following represents your firm's plans to invest in technology related to legal operations in 2023?



QUICK FACTS

About 65% plan to invest more

16% plan to invest less

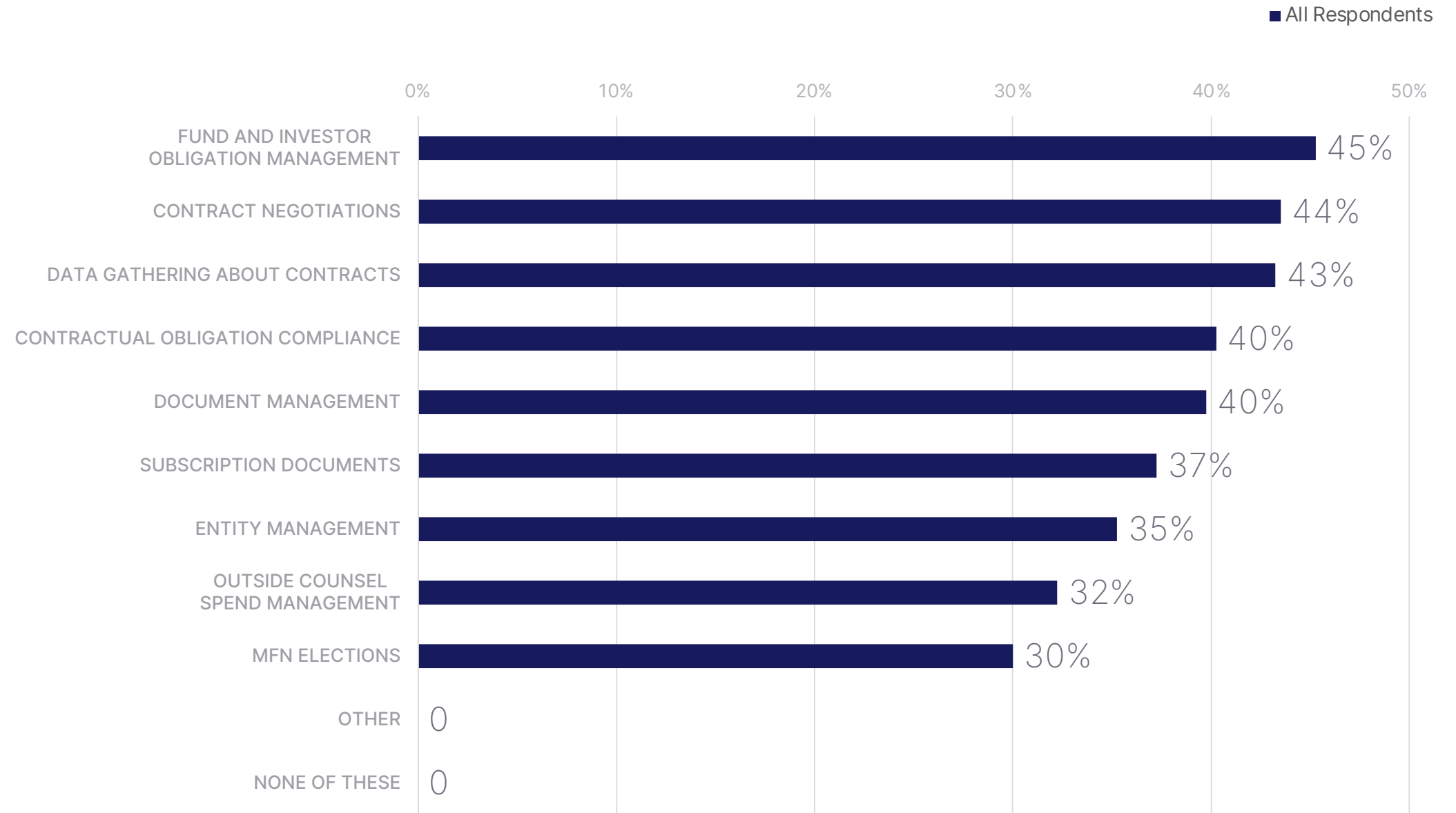
Percentages may not add to 100% because of rounding.

Legal process pain points





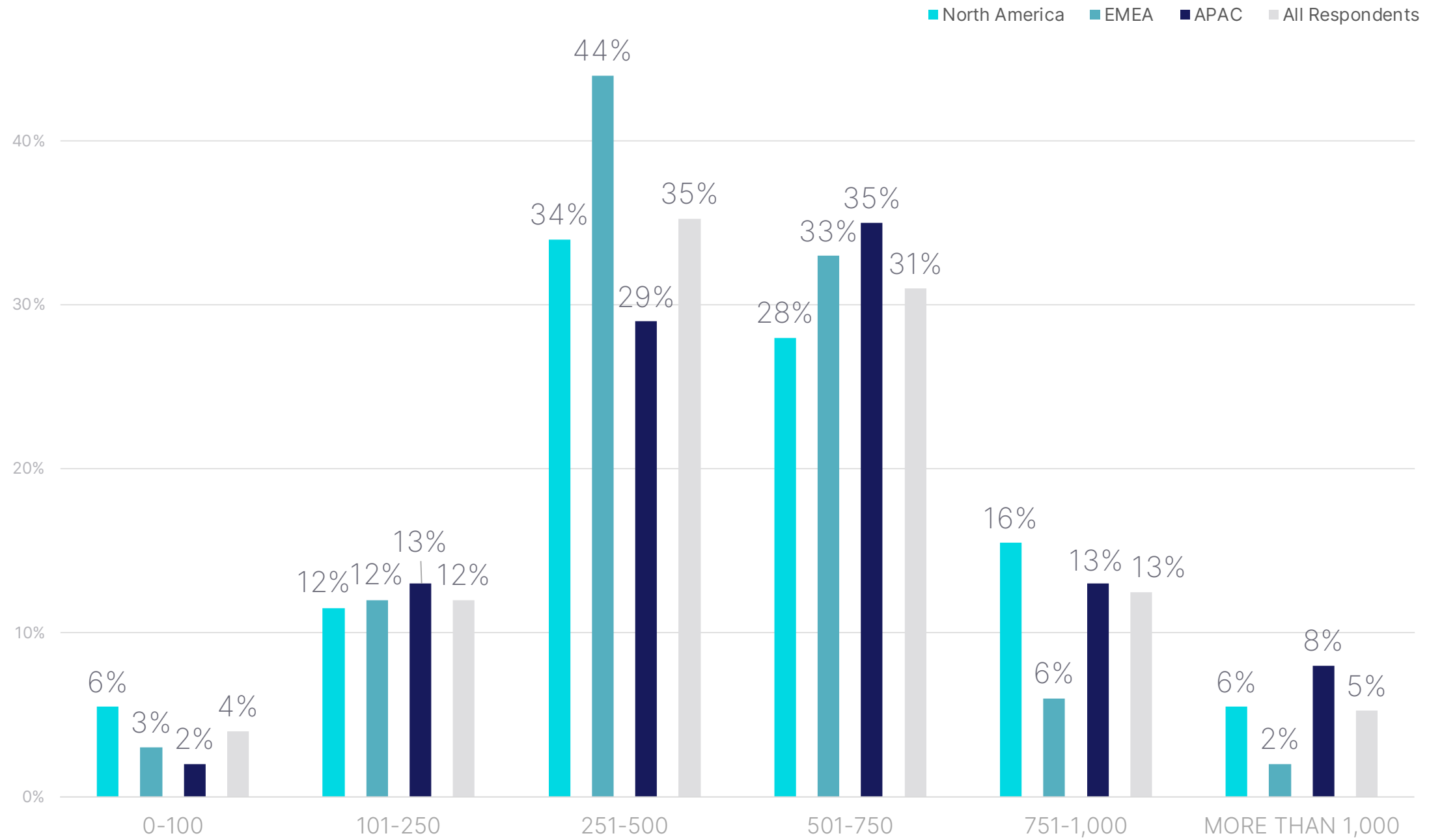
What aspects of your legal operations would benefit the most from some level of digital transformation?



Respondents could select multiple options — responses will not total 100%.



What is your firm's NDA volume on an annual basis?

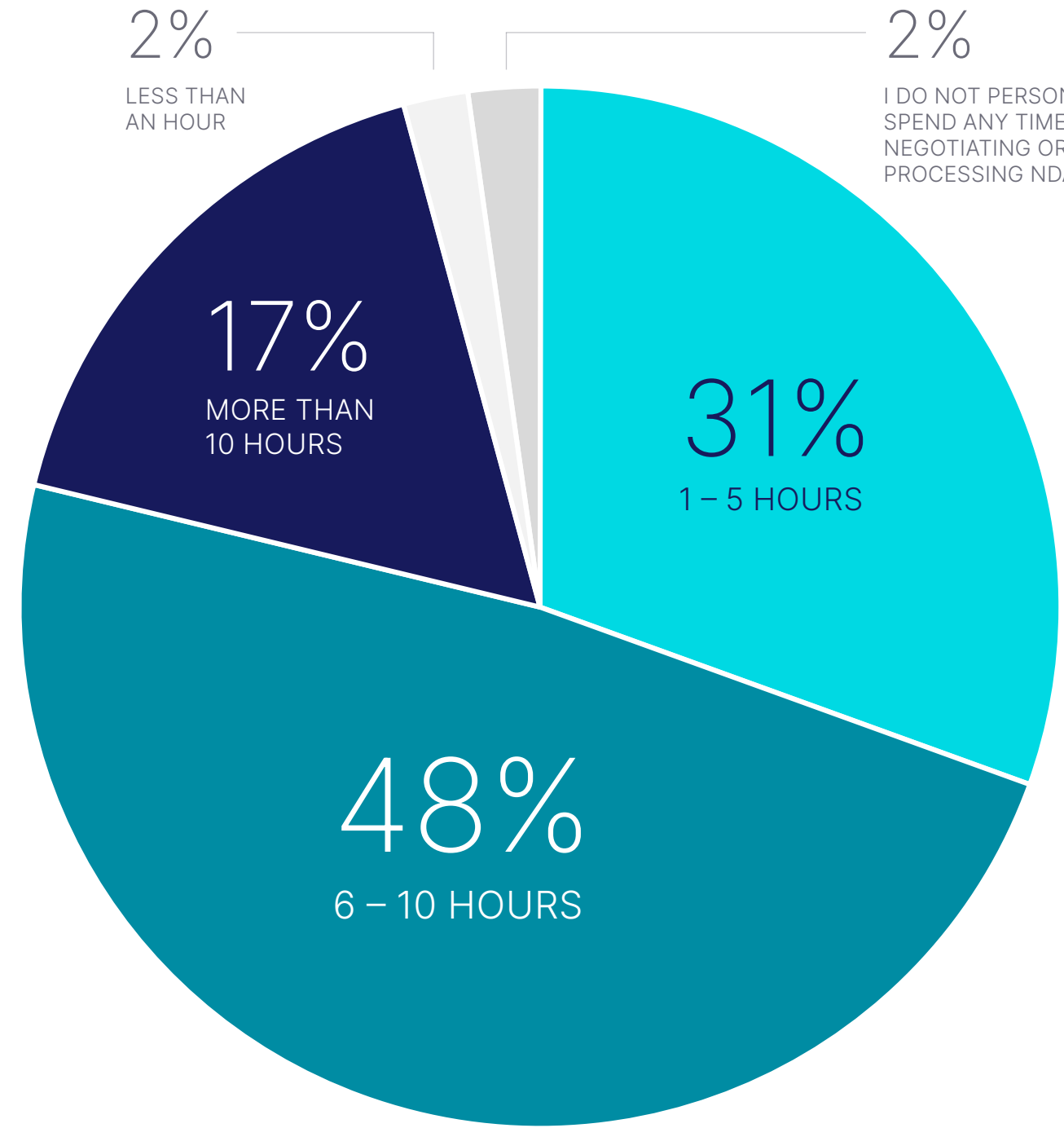


Percentages may not add to 100% because of rounding.



How much time do you personally spend on negotiating or processing NDAs each week?

ALL RESPONDENTS



QUICK FACTS

33% of all respondents spend 5 hours or less

- North America: 36%
- EMEA: 24%
- APAC: 35%

65% of all respondents spend 6 hours or more

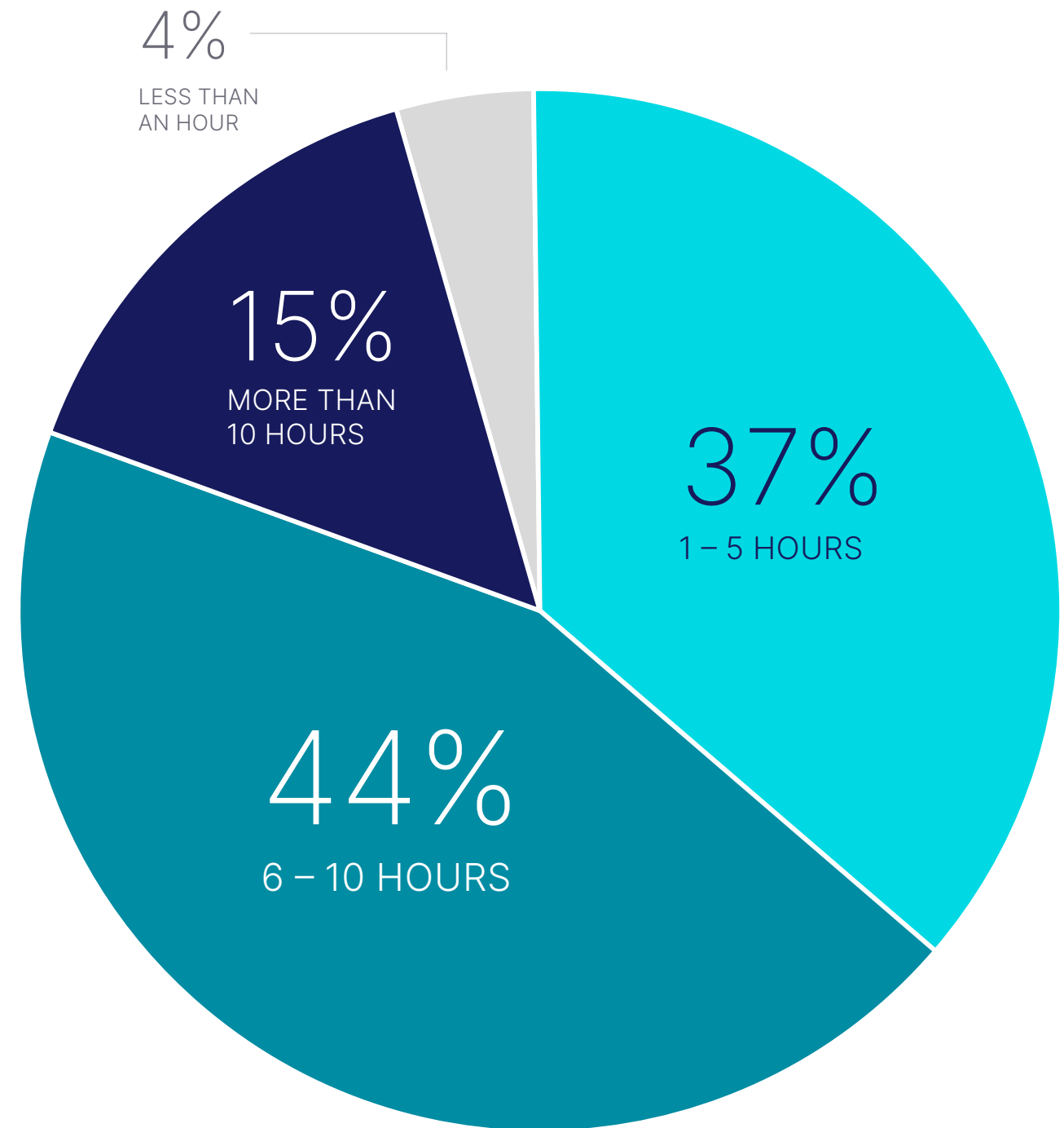
- North America: 63%
- EMEA: 73%
- APAC: 63%

98% of all respondents spend at least some time every week negotiating NDAs



How much time do those who directly report to you spend on NDAs each week, on average?

ALL RESPONDENTS



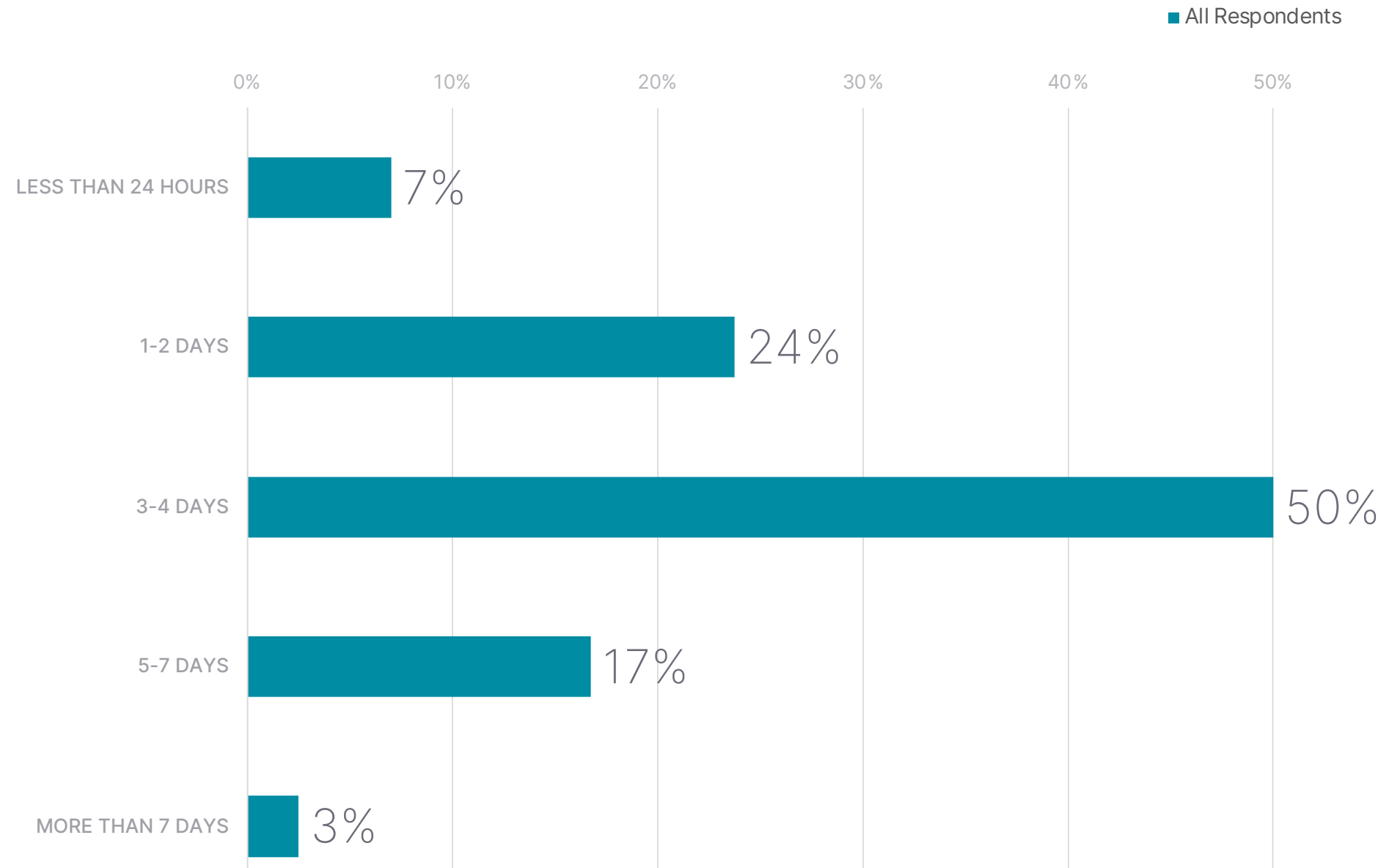
QUICK FACTS

41% spend 5 hours or less

59% spend 6 hours or more



What is your firm's average turnaround time for negotiating and executing NDAs?



QUICK FACTS

31% take 2 days or less

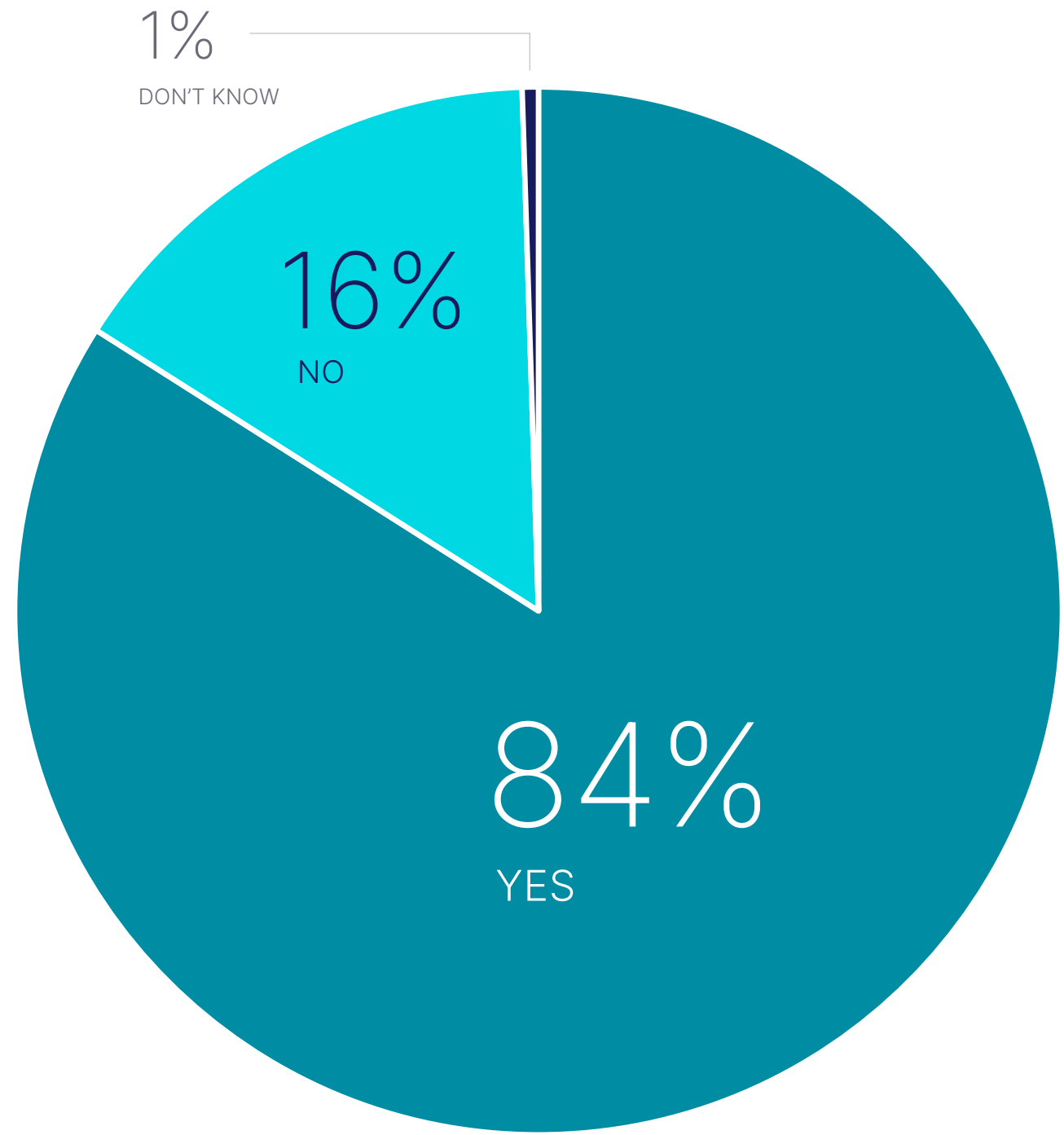
About 69% take 3 days or more

Percentages may not add to 100% because of rounding.



Has your firm developed guidelines or a playbook for negotiating NDAs?

ALL RESPONDENTS



1%
DON'T KNOW

16%
NO

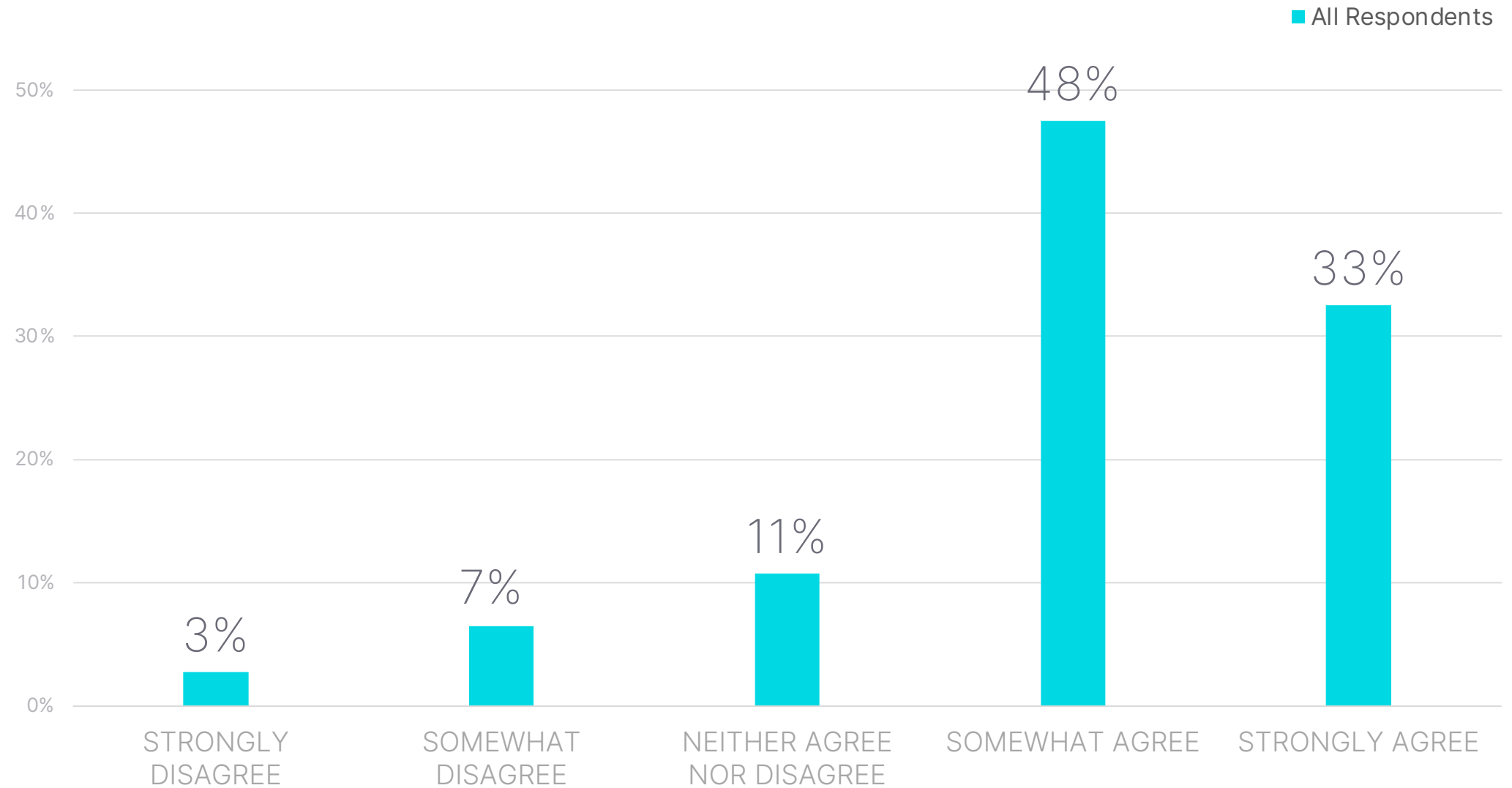
84%
YES

■ Yes ■ No ■ Don't know

Percentages may not add to 100% because of rounding.



How strongly do you agree or disagree with the following statement?
My firm negotiates consistent positions on common terms across all of our NDAs.



QUICK FACTS

About 80% agree

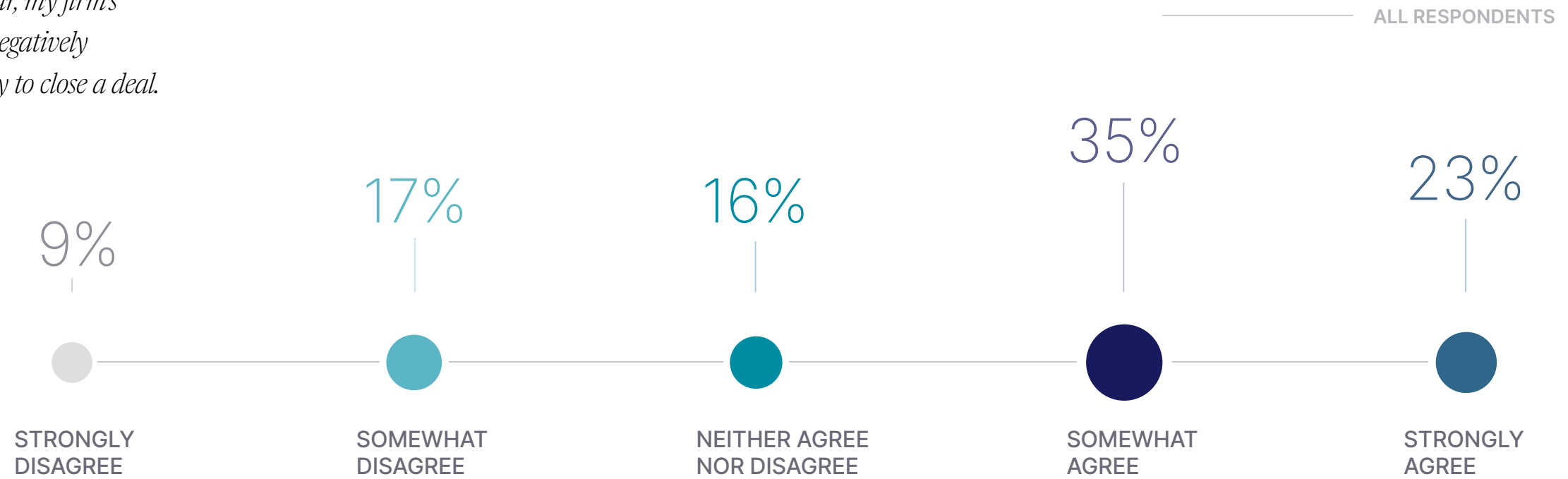
About 9% disagree

Percentages may not add to 100% because of rounding.



How strongly do you agree or disagree with the following statement?

During the past year, my firm's NDA process has negatively impacted my ability to close a deal.



Percentages may not add to 100% because of rounding.

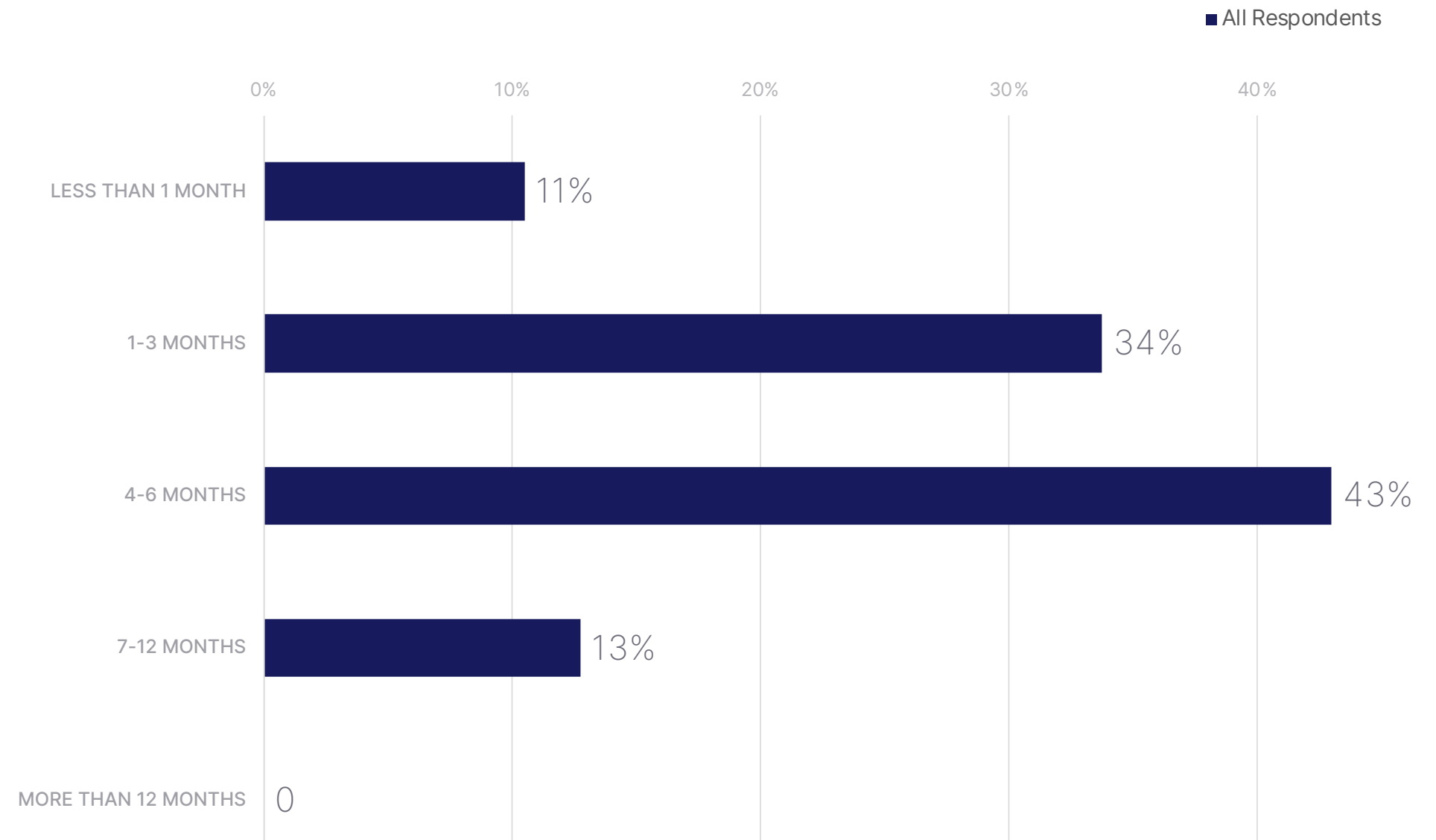
QUICK FACTS

58% agree

26% disagree



Once a fund has closed, about how long does it take for you to compile or receive a compendium of key fund documents and side letter terms?



■ All Respondents

QUICK FACTS

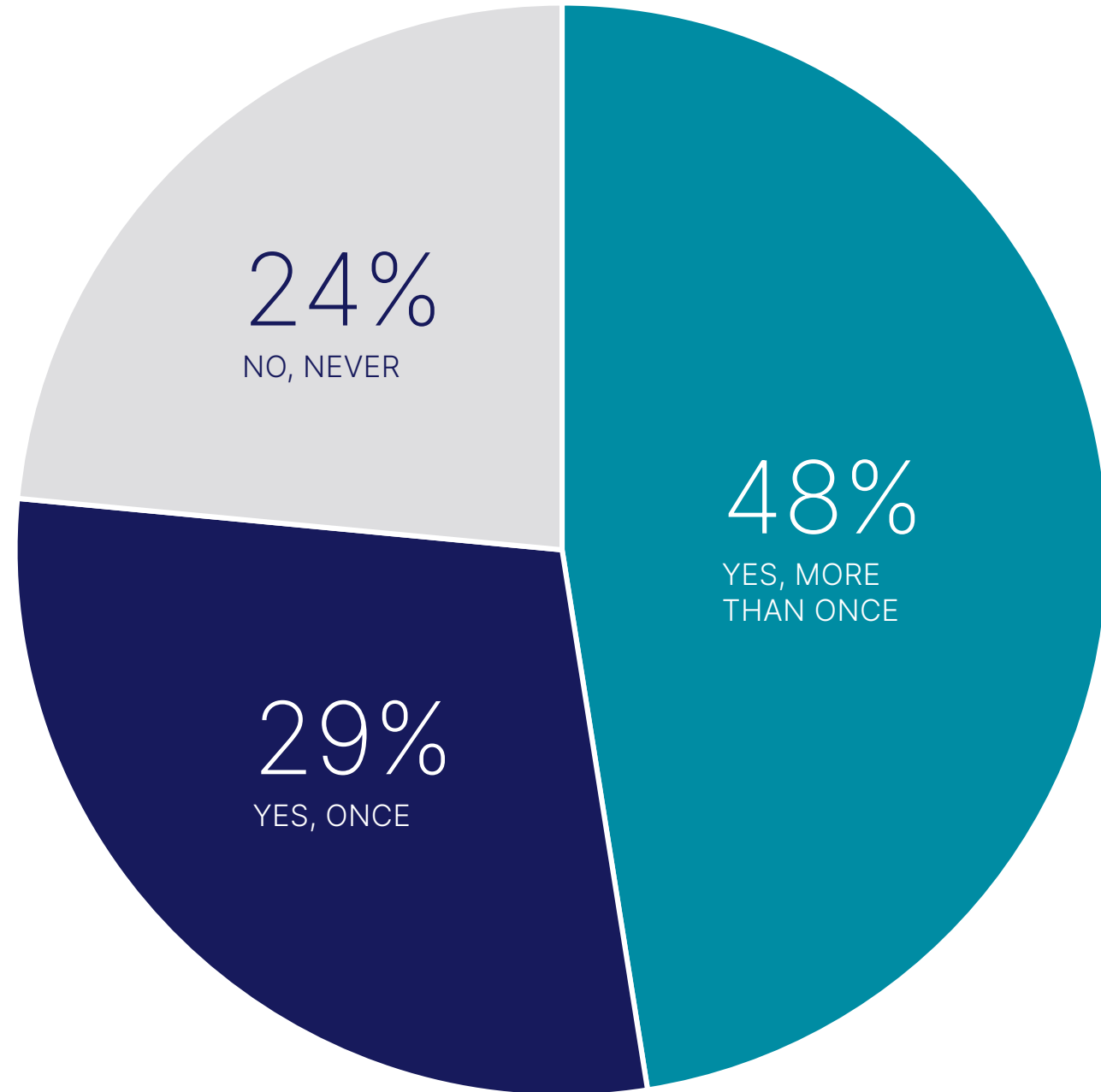
56% take 4 months or more
45% take less than 4 months

Percentages may not add to 100% because of rounding.



In the past year, have you been worried about missing compliance with investor obligations?

ALL RESPONDENTS



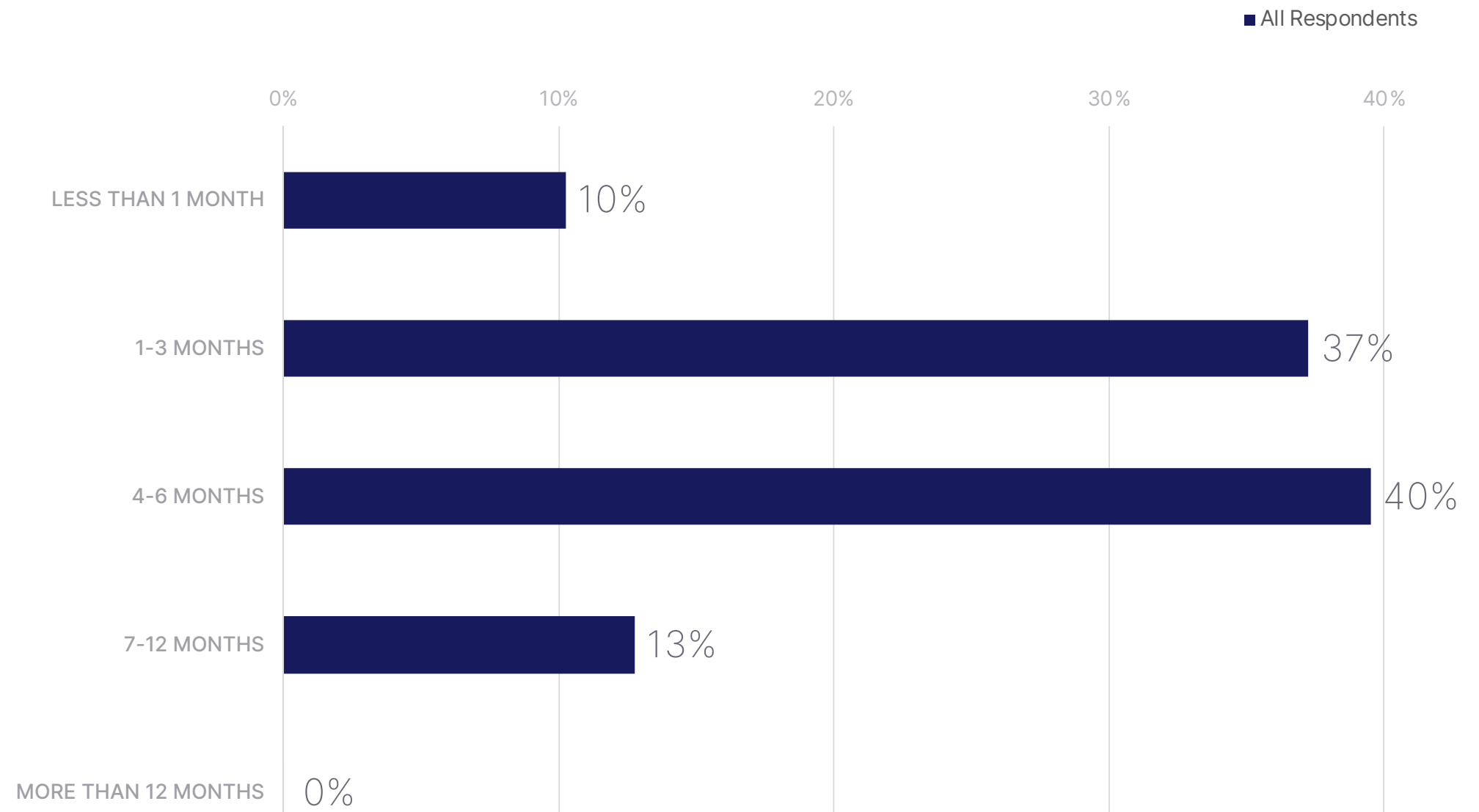
QUICK FACTS

77% have been worried at least once

Percentages may not add to 100% because of rounding.



Once a fund has closed, how long does it take your firm to complete the Most Favored Nation (MFN) election process?



QUICK FACTS

- 53% take 4 months or more
- 47% take less than 4 months

Percentages may not add to 100% because of rounding.

About Ontra

Ontra is the legal operating system for private markets. The Ontra platform allows asset managers to digitally transform their legal workflows across all critical areas of their business: raising funds, investing capital, and operating assets. Ontra combines machine learning and AI-enabled software with a worldwide partner network of highly trained lawyers to reduce the time, expense, and risk associated with fund and contract management, freeing its customers to focus on other strategic priorities.

Ontra is headquartered in San Francisco, with global operations across North America, Europe, and Asia.

Learn more at www.ontra.ai.