

The background of the slide is a dark blue, futuristic cityscape at night. The city is filled with illuminated buildings and streets. Overlaid on the city are numerous vertical lines of light in shades of blue, purple, and white, resembling data streams or digital connections. The lines vary in length and brightness, creating a sense of depth and movement. The overall atmosphere is high-tech and digital.

**Baker
McKenzie.**

Impact of Digital Transformation and Cloud Computing on Outsourcing

Peter George | July 2022

Speaker

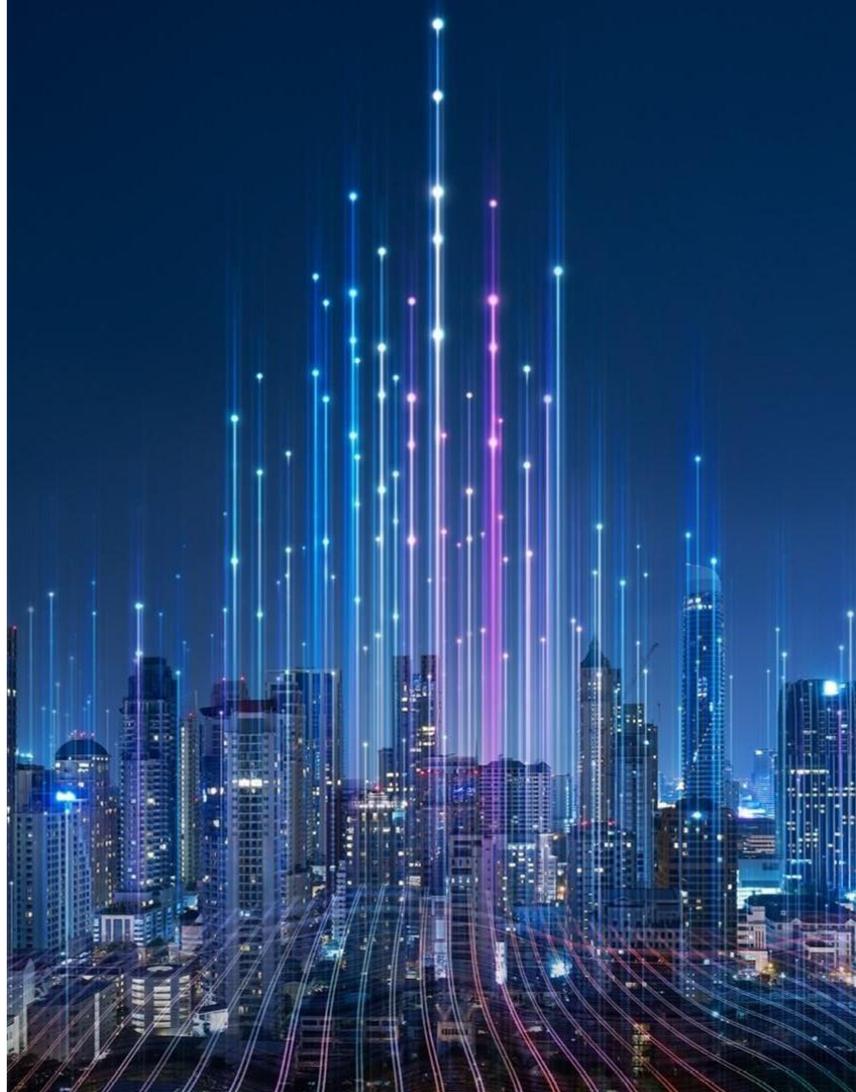


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Peter George is a partner in Baker McKenzie's Chicago office. He practices international commercial law and regularly advises clients, both on the buyer and provider side, on domestic and multi-jurisdictional sourcing transactions, complex business process transactions involving human resources, finance and accounting and other web enabled services. Peter is a recognized leader in the areas of electronic contracting, social media, contracting for cloud services, robotic process automation, Internet of Things and other disruptive technologies. He regularly advises clients on the complex technology and data rights issues these technologies raise, both domestically and from a global perspective.

He similarly advises clients in the areas of cross-border and domestic sourcing transactions, data and technology transfers, licensing transactions and the general management of their intellectual property assets.



Agenda

1

KEY TRENDS IN DIGITAL TRANSFORMATION & CLOUD CONTRACTING

2

RESULTS OF BAKER MCKENZIE'S 2021-2022 DIGITAL TRANSFORMATION & CLOUD SURVEY

3

TOP CONCERNS AND INVESTMENT PRIORITIES OF EXECUTIVES

4

BEST PRACTICES FOR ADDRESSING KEY CONCERNS & OPPORTUNITIES

Organizational Profile

We interviewed senior buyers of digital services/cloud computing in 500 global organizations, representing 11 global markets.

United States
30%

United Kingdom
14%

Germany
8%

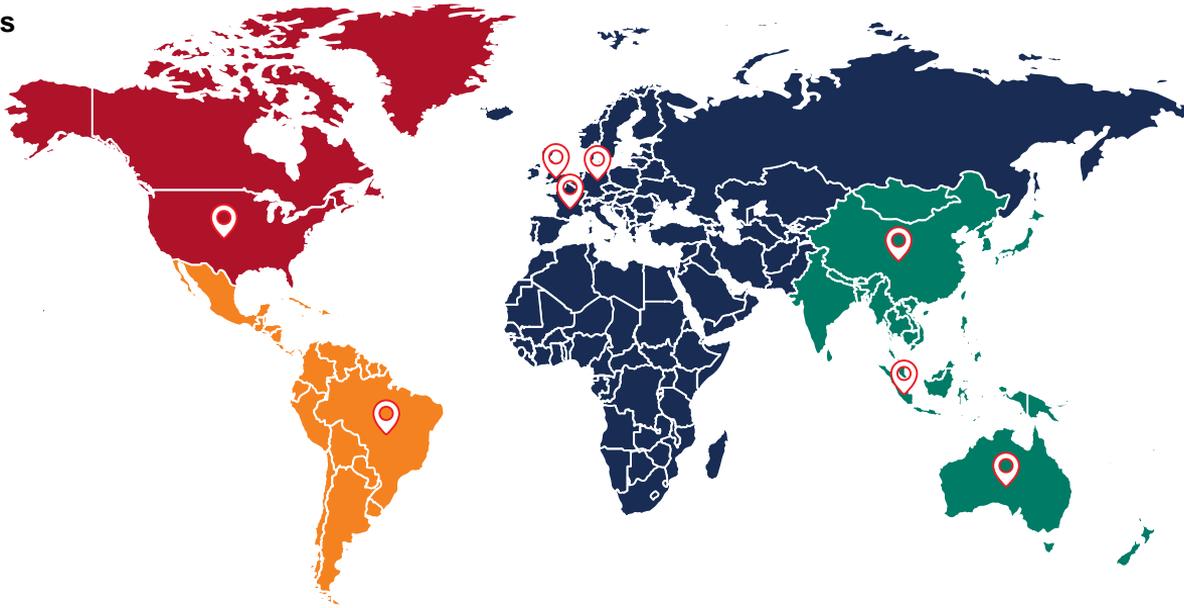
Brazil
10%

France
8%

Mainland China
10%

Singapore
10%

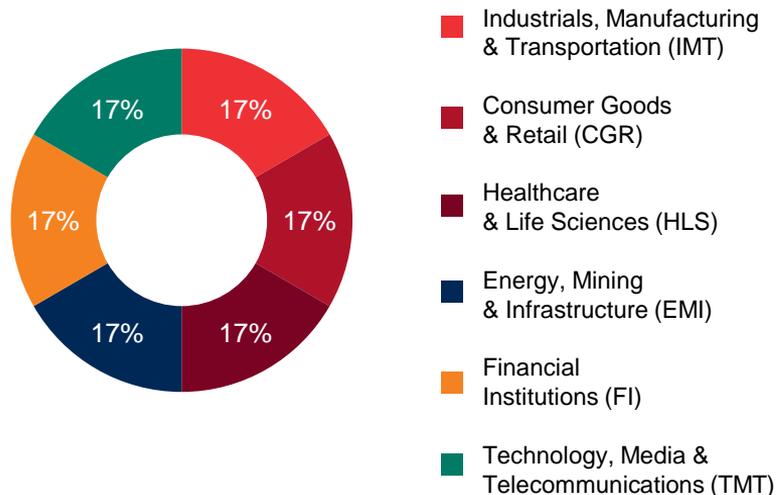
Australia
10%



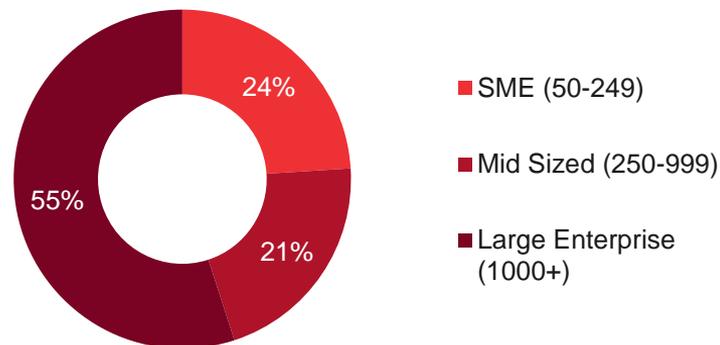
Organizational Profile

The majority of respondents work for large enterprises with over 1,000 employees. Six key sectors are represented evenly in our data.

In which sector does your company primarily operate?



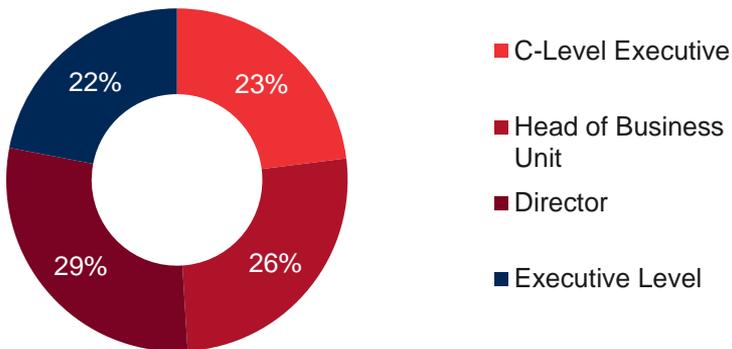
How many employees does your company have globally?



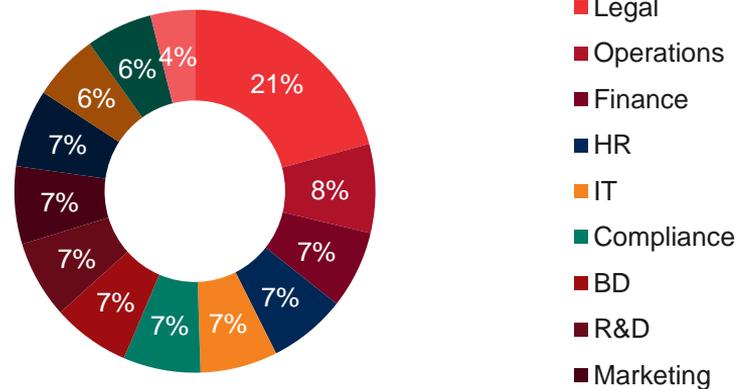
Leader Profile

To ensure an enterprise-wide perspective, we spoke to senior buyers/decision-makers across all functions including those in legal/compliance, IT, operations, HR, procurement, strategy and commercial roles.

What is your level of seniority within the organization?



Which function area are you primarily responsible for?



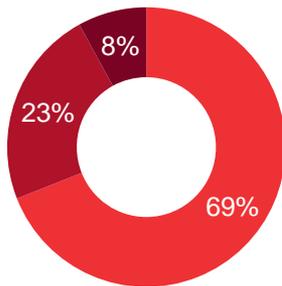


1 Key trends in Digital Transformation & Cloud Contracting

Defining Digital Transformation

The majority of respondents say digital transformation is a tool for improving process efficiency rather than fundamental business change.

What Does Digital Transformation Mean to Your Enterprise?



- Process efficiency
- New ways to sell product/services
- Business model change



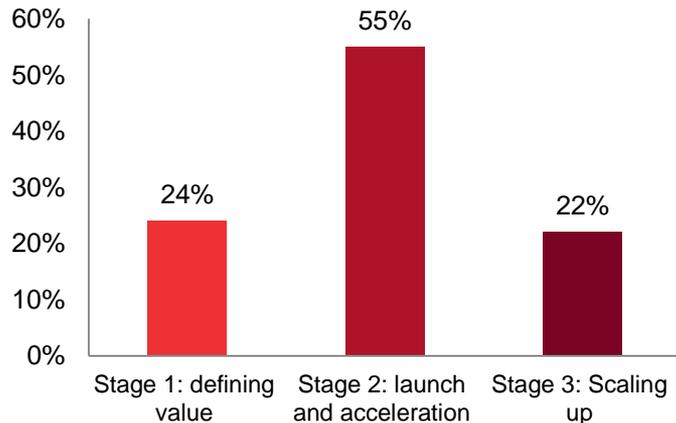
Sector Spotlight: TMT & IMT

Only 4% of fast-paced TMT companies characterize digital transformation as a fundamental change to the way they do business, compared to a high of 14% of IMT businesses.

Program Maturity

Digital transformation programs have matured rapidly since our last survey. Where previously 37% of organizations had yet to begin, most (77%) are now accelerating and scaling digital transformation efforts.

Stages of the Digital Transformation Journey



Sector Spotlight: TMT & IMT

54% of TMT organizations are managing a number of high-value initiatives and 45% are adopting new operating models.

By contrast, 34% of EMI organizations are still securing senior management commitment and 35% are setting goals for their digital transformation programs.

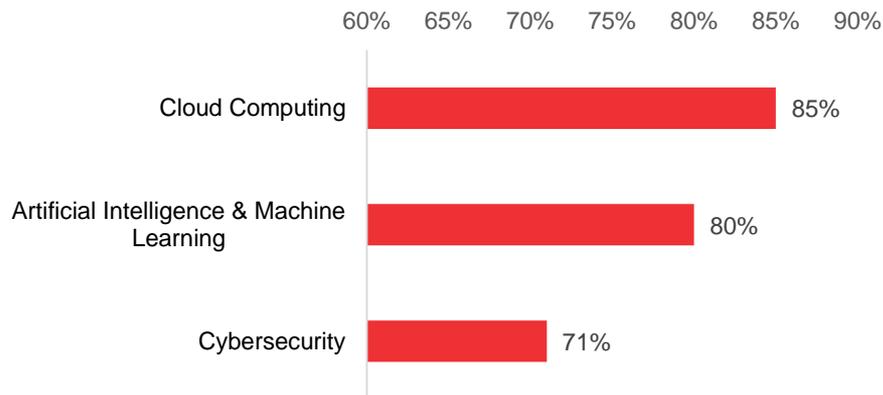


2 Results of Baker McKenzie's 2021-2022 Digital Transformation & Cloud Survey

Current Investment Priorities

Storing, mining and securing data are current priorities for investment in digital transformation.

Current DT Investment Areas
(% ranked as top three)



Sector Spotlight: IMT & EMI

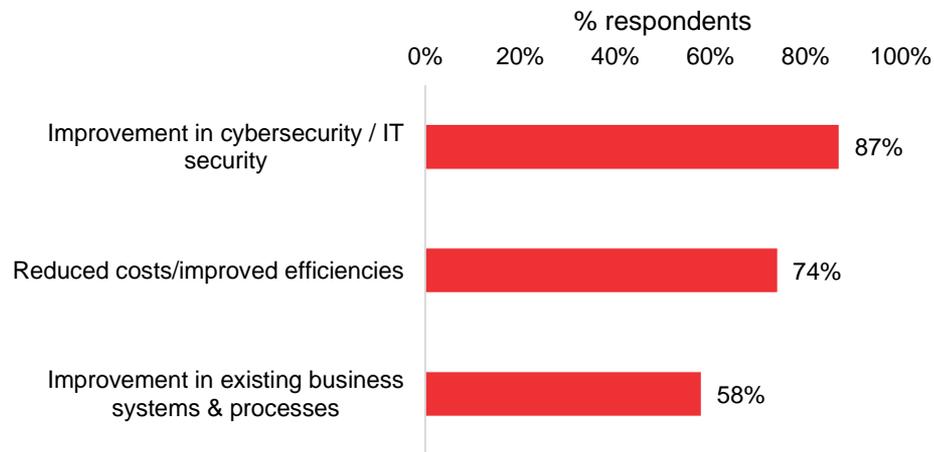
A relatively low 40% of IMT and 41% of EMI businesses are investing in cybersecurity.

A lack of investment in key protections could expose businesses to significant commercial risk and reputational damage if a breach were to occur.

Reaping the Benefits

Improved security is the leading benefit of digital transformation according to leaders. The impact of COVID-19 on business performance also looms large — digital transformation will play a key role in business process improvement and cost reduction.

Top Three Benefits of DT Implementation



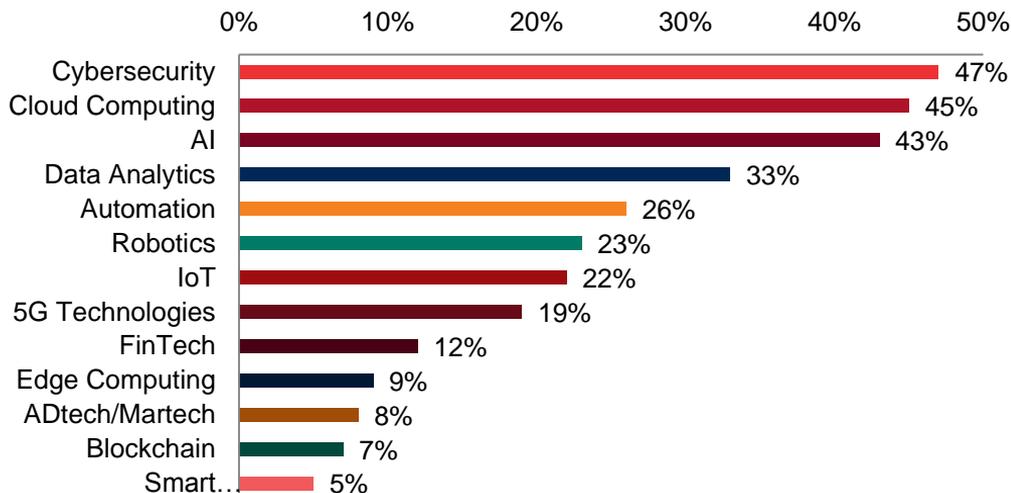
Cybersecurity Risks Are Front and Center

In 2020, agility was previously the top benefit of digital transformation cited by respondents. Now, the focus is firmly on technology as a tool for protection and efficiency.

Core Technology

Organizations' most strategically important technology reinforces these investment priorities and key benefits. With protecting assets and cost reduction top of mind, cybersecurity and cloud computing are at the core of digital transformation.

Top Five 5 Most Important Technologies
(current digital transformation strategy)



AI is Newly Important

In 2020, only 14% of survey respondents were heavily investing in AI. Today, nearly half of leaders believe AI is core to digital transformation.



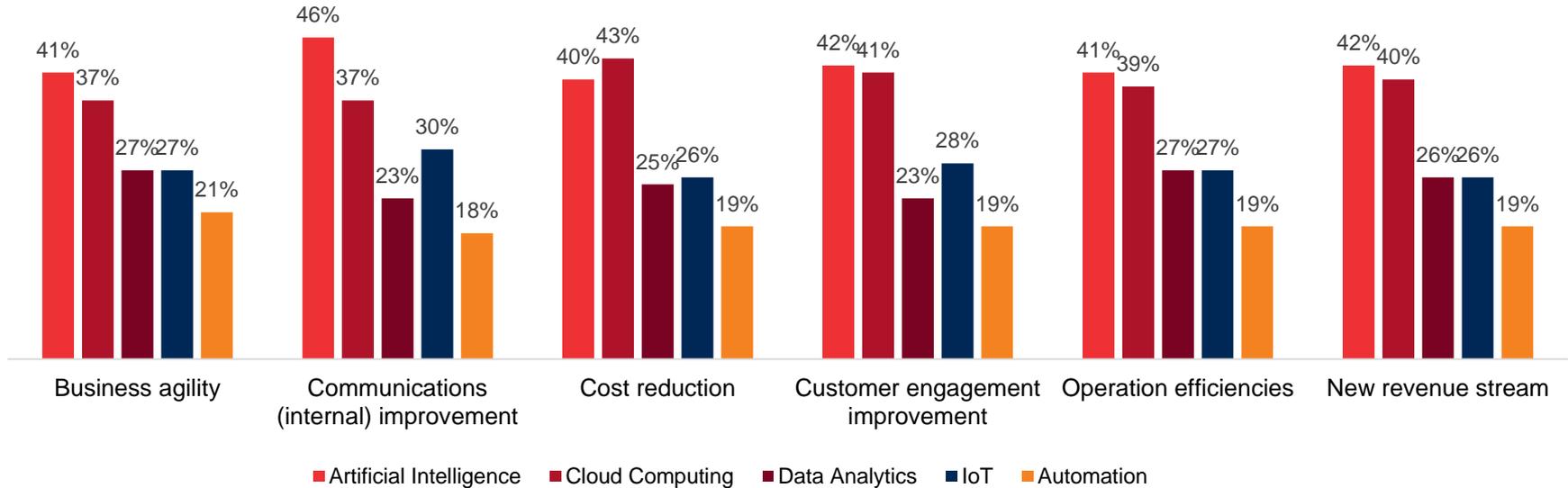
Sector Spotlight: HLS

98% of HLS respondents surveyed said cybersecurity is a current area of investment.

Big Bets on AI

Positive impact on communications, customer engagement, revenue streams and business agility is driving interest in AI.

Technologies Ranked as Top Two for Greatest Potential Impact



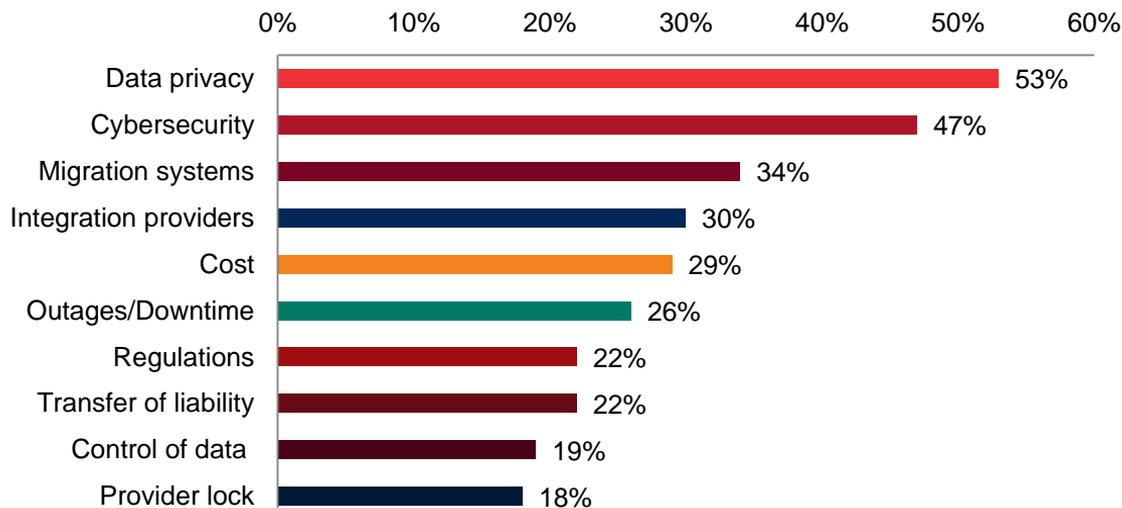
Cloud Remains Critical to Transformation

Benefits to agility, operational efficiency, data storage and security mean cloud is a critical component of digital transformation today. Almost half of companies are using private cloud, and nearly a third are using a combination of public and private.

Cloud Adoption Compounds Cybersecurity Worry

Despite the reported benefits in increased data security arising from cloud technology, concerns around data privacy and cybersecurity still keep leaders awake at night. While migration from legacy systems has become a greater concern over the past year, issues around control of data have eased.

Top Five Concerns (Cloud Computing)



Sector Spotlight

IMT, CGR & EMI

Outages/downtime is a top three concern when it comes to using cloud computing for IMT (39%), CGR (46%) and EMI (53%) organizations, compared to only 26% of all respondents.

HLS, TMT & FI

Data privacy and cybersecurity are ranked as top concerns around cloud adoption for HLS, TMT and FI organizations.

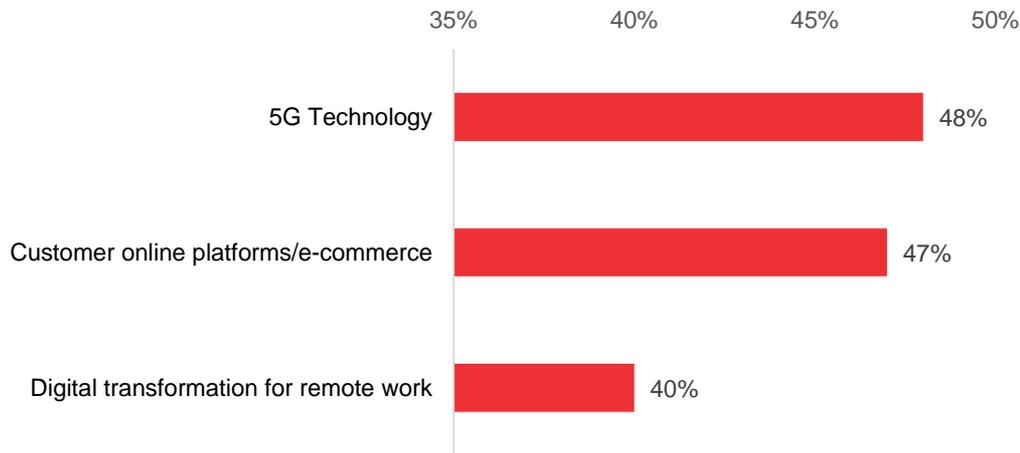


3 Top concerns and investment priorities of executives

Future Investment Priorities

Future investment suggests that organizations are gearing up for a step change in digital transformation. Artificial Intelligence, cybersecurity and cloud computing will be the lowest priorities for future investment, as new technology takes precedence.

Future Digital Transformation Investment Area
(% respondents ranked as top three)

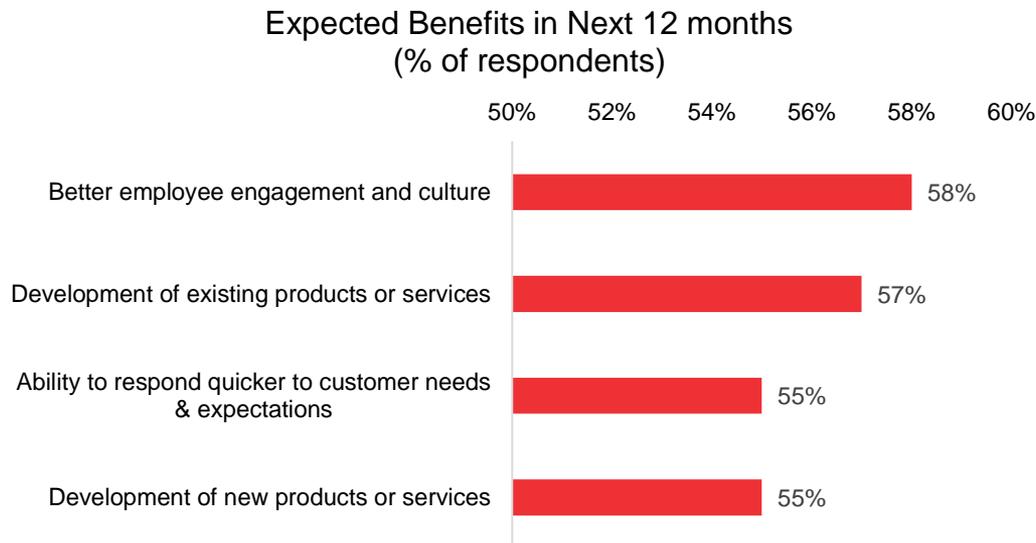


Sector Spotlight: IMT & EMI

43% of IMT and 29% of EMI businesses will prioritize cybersecurity over the next 12 months, as they pivot from current investments in IoT and automation to protecting their digital assets.

Shift in Enterprise Strategy

These priorities reflect a shift in enterprise strategy — from security and efficiency to new revenue streams and customer and employee experience. Digital transformation is an enabler of overall organizational goals.



Why the Change?

As the global war for talent grows and customer expectations continue to evolve, digital transformation can help organizations to compete.

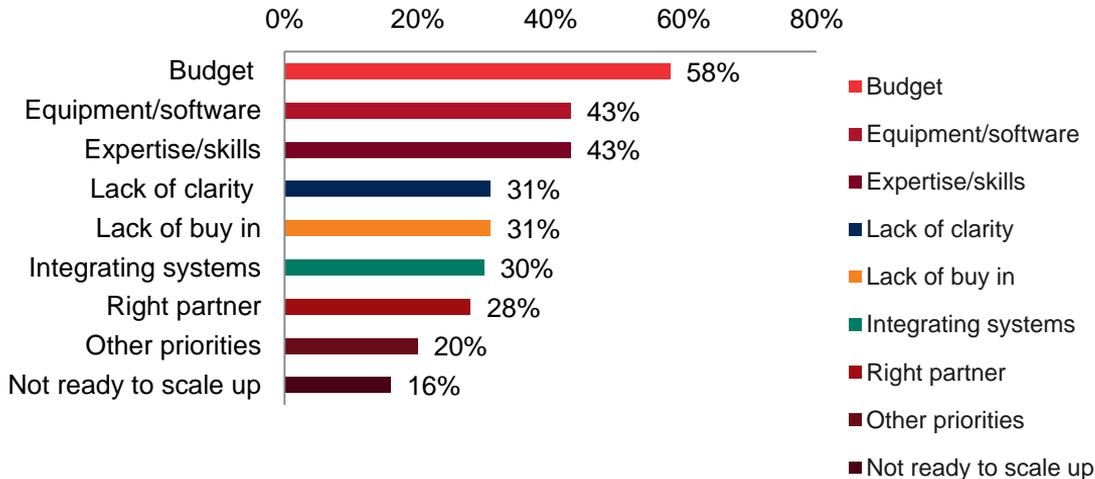


4 Best practices for addressing key concerns and priorities

The Resource Gap

Organizations are struggling to access the talent and resources they need to make digital transformation a reality. These issues are exacerbated by a lack of budget.

Barriers to Scaling Up / Accelerating Digital Transformation

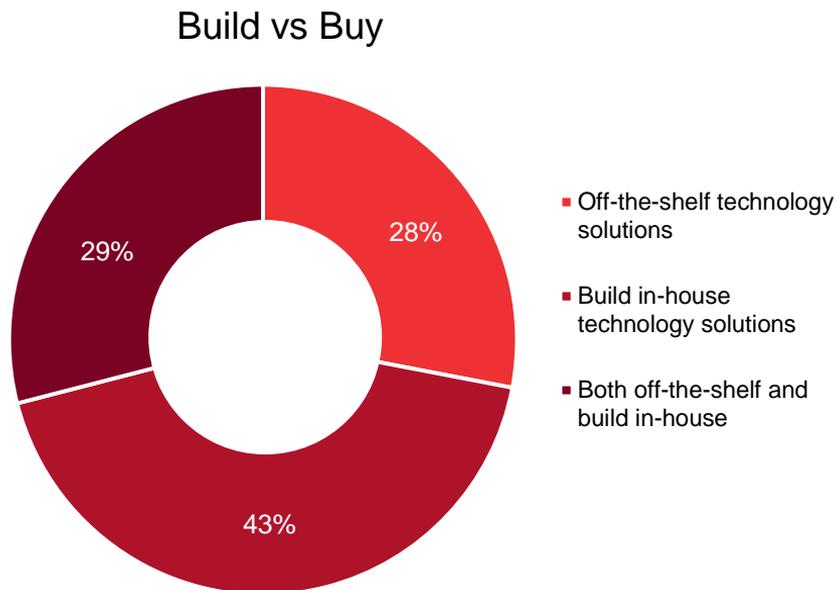


Sector Spotlight: IMT

41% of IMT organizations say that other more important strategic initiatives are taking priority, which is holding them back from scaling/accelerating digital transformation.

Build vs Buy: Overcoming the Resource Gap

Plans to develop new technology and buy the solutions that will be critical to digital transformation could be undermined by budget and buy-in issues.



To Consider

A lack of senior buy-in and clear strategic direction could mean teams rush into investments without managing risk.



What's Needed

Clarity of input and output is essential to manage confidentiality provisions and licensing scope, identify and protect newly created IP, and manage and enforce rights.

Data Storage and Security Risks

New technology means new risk for organizations — with particular concerns around data storage, security and exposure to cross-border data processing regulations.



Data security exposes the enterprise to the greatest risk of a data breach



Data storage exposes the enterprise to the greatest risk of a data breach



Increased cross-border regulation related to data is causing confusion



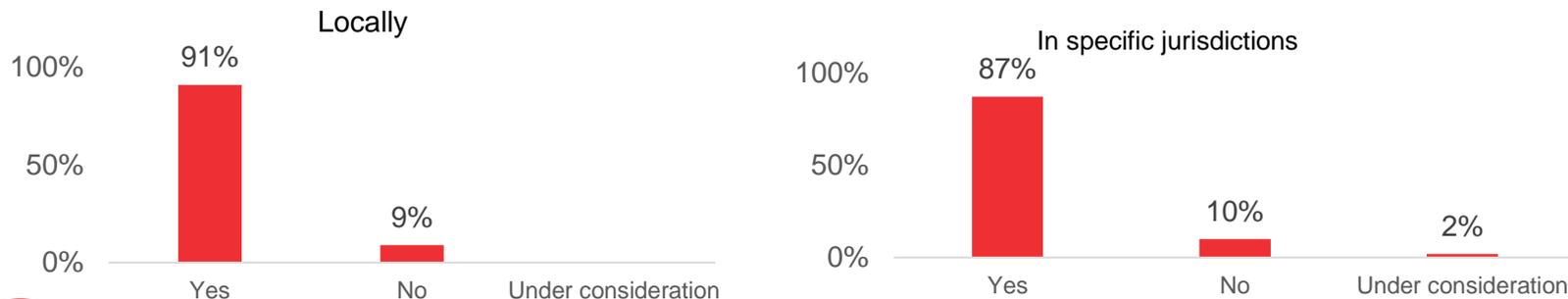
Key Takeaway

79% of organizations have some form of cyber insurance, but there may also be benefits in migrating to private, on-premises cloud for customer and commercial data.

Data Residency Laws Impede Data Strategy

Data residency laws are having a greater impact on data storage strategy than a year ago.

Impact of Laws Requiring Data Residency (i.e., laws requiring the maintenance of certain data within a jurisdiction) or Restrictions on Cross-border Transfers vis-à-vis Strategy on Storage of Data



Key Takeaway

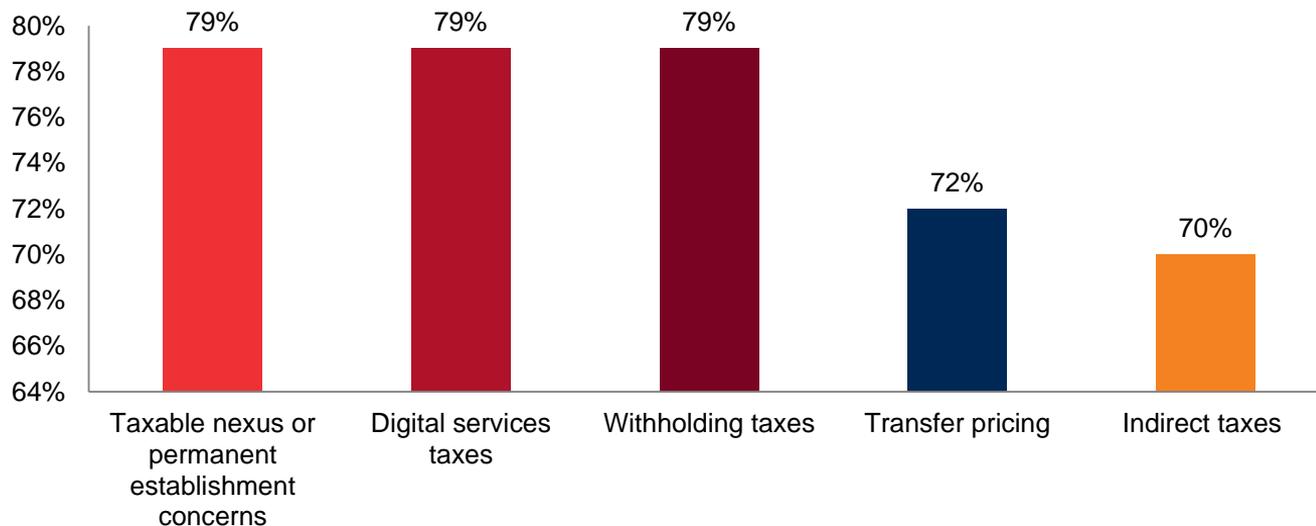
Complying with often complex and prohibitive local legislation can slow digital transformation progress and international growth plans.

For some, maintaining data within jurisdiction or restrictions on cross-border transfer means investing in costly, local data centers. For others, they will elect to avoid the complex legislation in some markets altogether.

Managing Tax Complexity

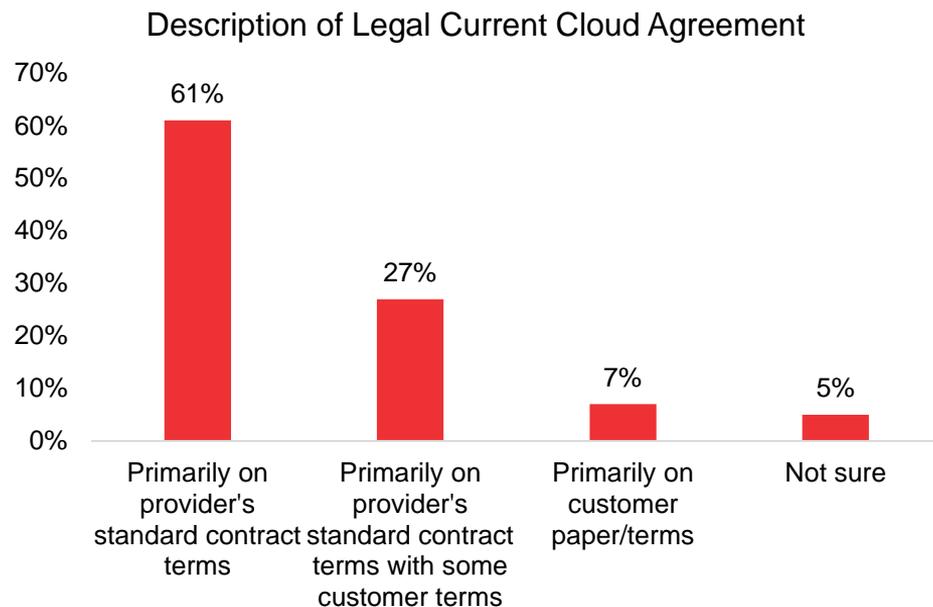
More complex and restrictive tax regimes mean growing concerns around permanent establishment status, digital services taxes and withholding taxes for organizations.

Extent of Change in Tax Positions Due to Recent Digital-related Changes in Selling or Procuring Good and Services



Cloud Risks and the Control Gap

Despite concerns around data security, processing and systems migration, organizations are at risk of relinquishing control to cloud providers.



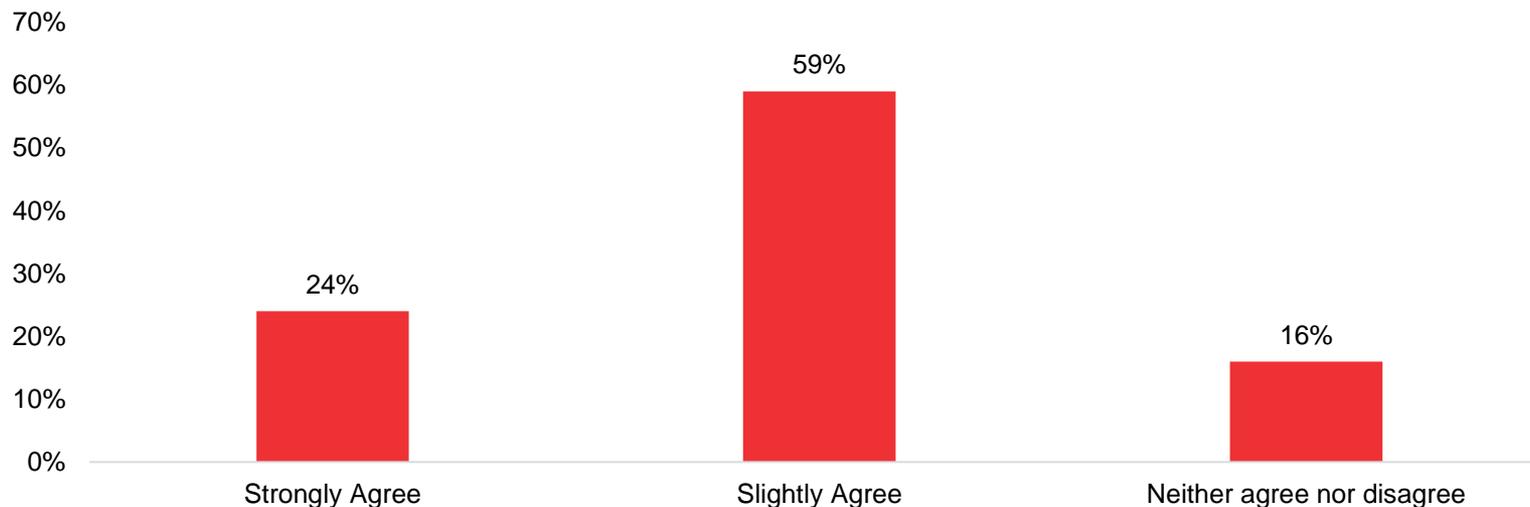
 **Risk Exposure**

Cybersecurity
Respondents indicated a continued focus on cybersecurity as a key aspect of cloud transactions.

Cloud Risks and the Control Gap

The majority of respondents agree that liability caps tend to be the preceding 12 months of service fees with higher caps for data privacy and security

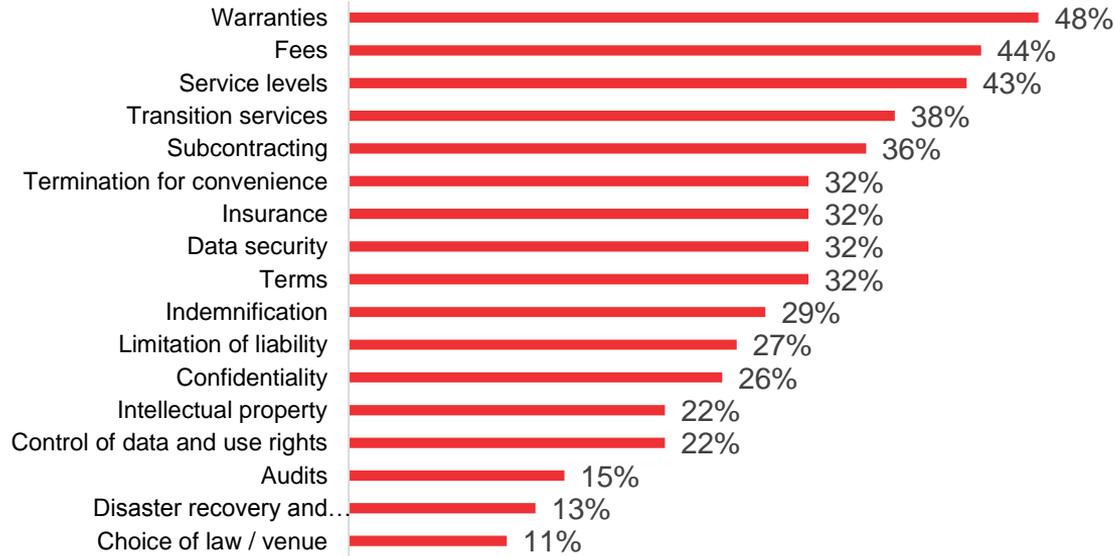
View on Liability Caps:
Preceding 12 Months of Service Fees



Cloud Contracting

Views on the most negotiable cloud contract provisions

Most Negotiable Contract Provisions
(% ranked top five)



To Consider

The most negotiable is not necessarily aligned with where the parties focus in negotiations

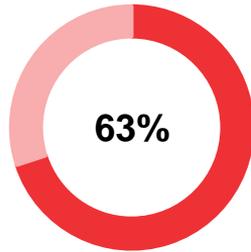


What's Needed

It is essential for organizations seeking to create value from cloud data to bake in appropriate protections upfront.

Eye on Governance

Governance should come into sharper focus as organizations make key investments, but legal and sourcing teams can find themselves out of the loop.



of respondents believe digitization can enable colleagues to bypass legal and sourcing control



1 in 3

respondents believe that with a clear governance plan they could achieve greater success



To Consider

While legal frameworks are flexing to change, this is not happening as quickly as technology is evolving.

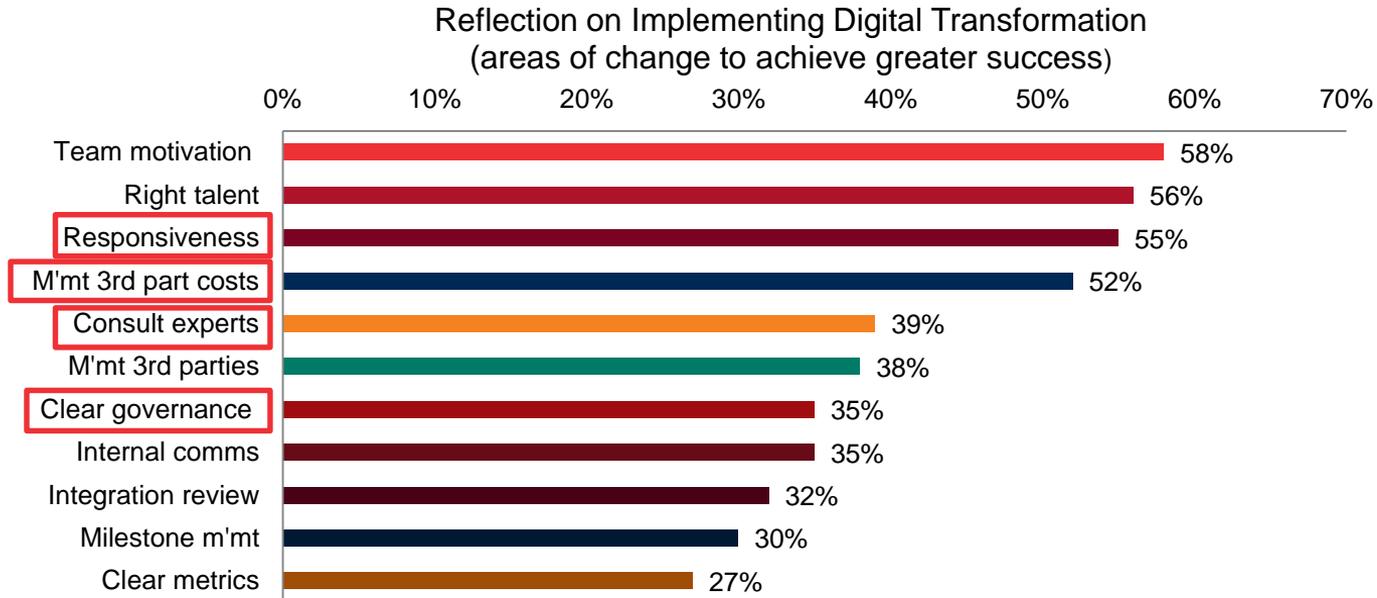


What's Needed

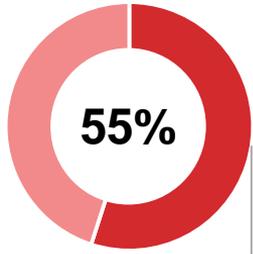
To bridge the gap, strong collaboration between the commercial and legal teams can empower the use of new technology with thoughtful planning rather than only reacting to discrete issues.

Lessons Learned

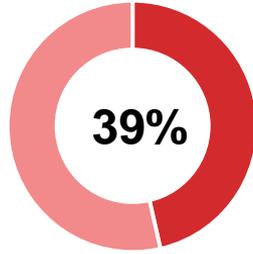
As the maturity of digital transformation programs grows, balancing agility and governance will be key to success.



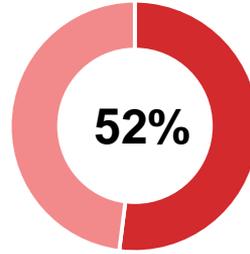
Four Key Areas of Hindsight



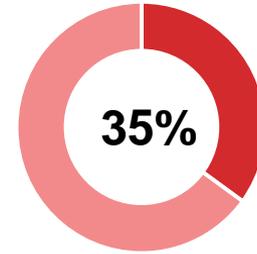
Faster identification
and reaction to
problems



Earlier involvement
of subject matter
teams in compliance
& tax



Better
management of
unexpected third-
party costs



Development of a
clear governance plan

Key Areas for Consideration



New Internal Organization for Transformation

Identify how your organization is pursuing digital transformation and evaluate what organization will empower proactive vs. being reactive



Data Opportunities and Risk

Availability of data and means of processing present new opportunities from operational improvement to monetization, but come with new risks, externally and internal compliance



Cloud Remains Prominent

Cloud continues to be a main driver of, and enabling technology for, digital transformation



People

In a digitally transforming world with availability of new tools and advanced technology such as AI, people are still central

Questions

The image features a dark blue, stylized cityscape at night with numerous skyscrapers and glowing windows. A large, white, semi-circular speech bubble is positioned in the upper left quadrant, containing the word "Questions" in a bold, dark blue font. The background is filled with vertical streaks of light and small, glowing particles, creating a futuristic or digital atmosphere.

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