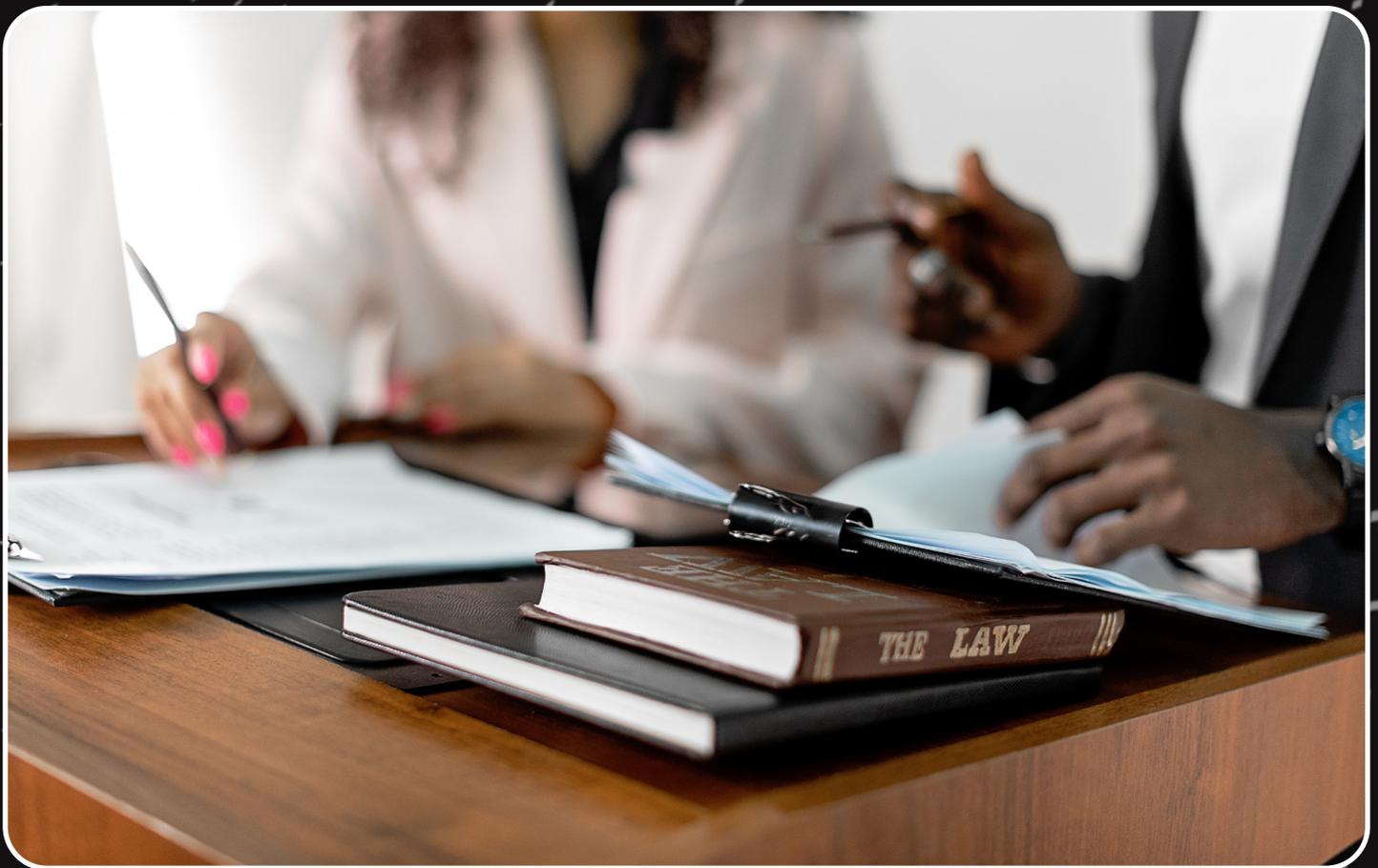


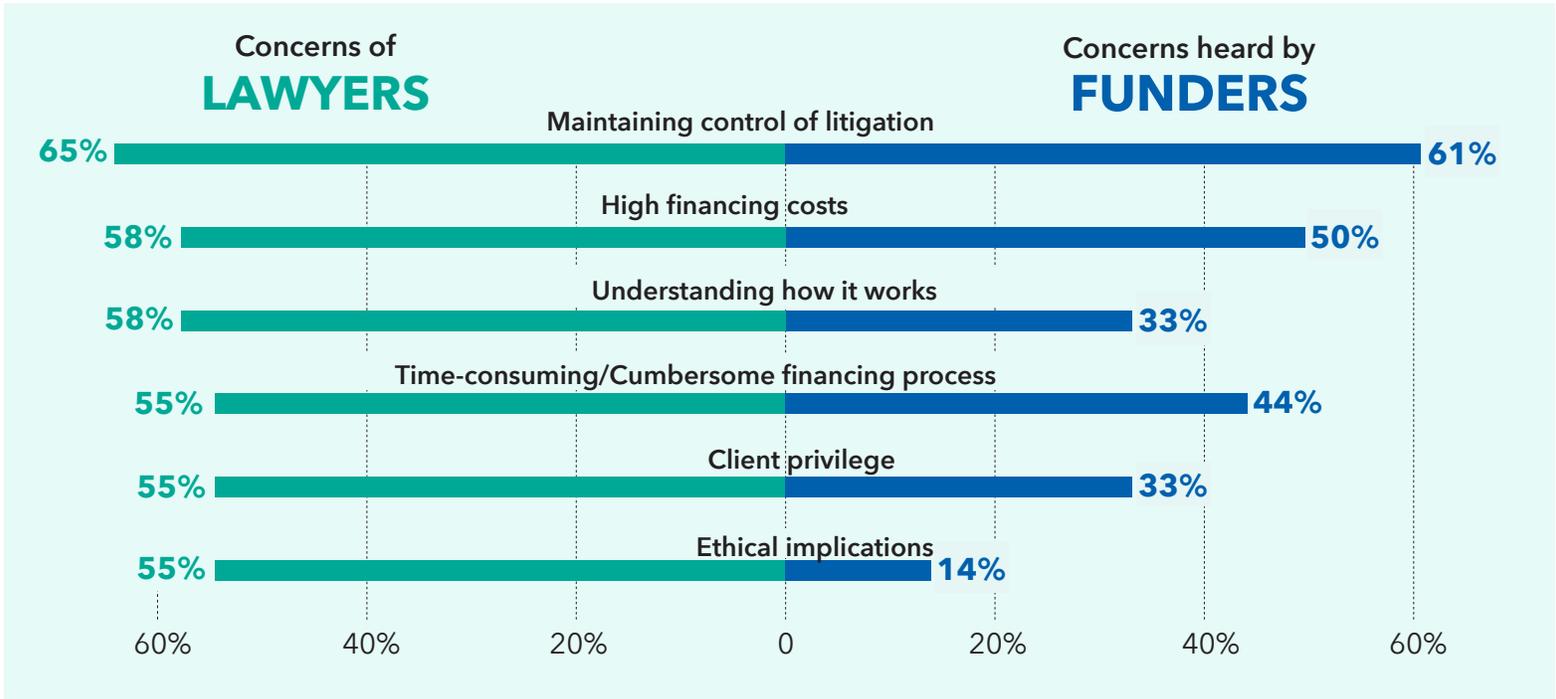
Litigation Finance Survey 2021



In September, **Bloomberg Law** surveyed 75 legal professionals - 38 litigation finance providers and 37 lawyers who have used or are interested in using litigation finance. Respondents provided insight into the litigation finance industry, including impacts of the pandemic and general attitudes toward the industry.

AREAS OF CONCERN

Lawyers and funders were on the same page with their top-reported concern -- maintaining control of litigation. However, funders seem largely unaware that firms are hesitant regarding ethical implications of using litigation finance, as over half of lawyers reported this as a concern compared to only 14% of funders who report hearing that concern from potential clients.



COMMON NEGOTIATED TERMS

We asked lawyers and funders about common clauses in their litigation finance agreements and how important those clauses are. The most frequently identified common clause for both lawyers and funders is a return waterfall clause based on multiple of invested capital. In general, funders report clauses to be important more often compared to lawyers.

ACCORDING TO LAWYERS

| COMMON | | IMPORTANT |
|--------|--|-----------|
| 50% | Return waterfall based on multiple of invested capital | 58% |
| 33% | Attorney return subordinated to return of funder capital | 63% |
| 29% | Mandatory arbitration | 100% |
| 29% | Share of proceeds based on duration of loan | 67% |

ACCORDING TO FUNDERS

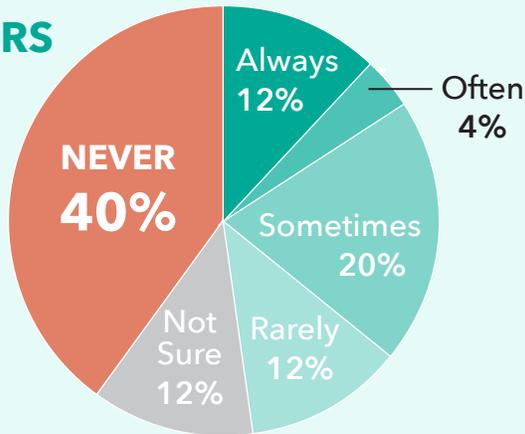
| COMMON | | IMPORTANT |
|--------|--|-----------|
| 76% | Return waterfall based on multiple of invested capital | 85% |
| 60% | Attorney return subordinated to return of funder capital | 90% |
| 54% | Share of proceeds based on duration of loan | 94% |
| 43% | Right to withhold funding | 87% |
| 35% | Change of control provisions | 75% |

FUNDING ARRANGEMENTS

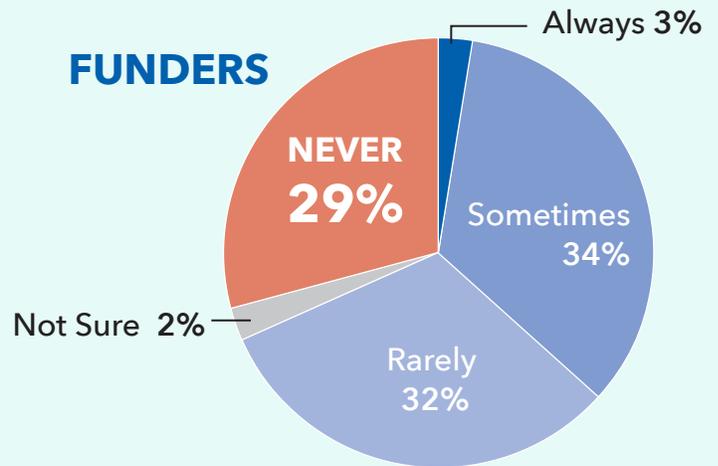
Between lawyers and funders, there is a lack of consensus on how often funding arrangements are disclosed in court.

How frequently are your financing arrangements DISCLOSED IN COURT?

LAWYERS



FUNDERS



More than half of lawyers obtained deals that cover a combination of working capital/claim monetization and fees and costs. Generally, direct to claimholder single-case financings account for over half of funders' cases.

LAWYERS

Which **types of financing deals** have you obtained?

| | |
|--|------------|
| Deals that cover a combination of working capital/claim monetization and fees and costs | 54% |
| Deals that cover only fees and costs | 31% |
| Deals that cover only claim monetization | 15% |
| Not sure | 27% |

FUNDERS

Roughly **what percentage of the cases** for which you provide financing fall within each of the following categories?

| | |
|--|------------|
| Direct to claimholder single-case financing | 53% |
| Law firm single-case financing | 25% |
| Law firm portfolio financing | 21% |
| Corporate portfolio financing | 18% |
| Pro bono financing | >1% |

96%

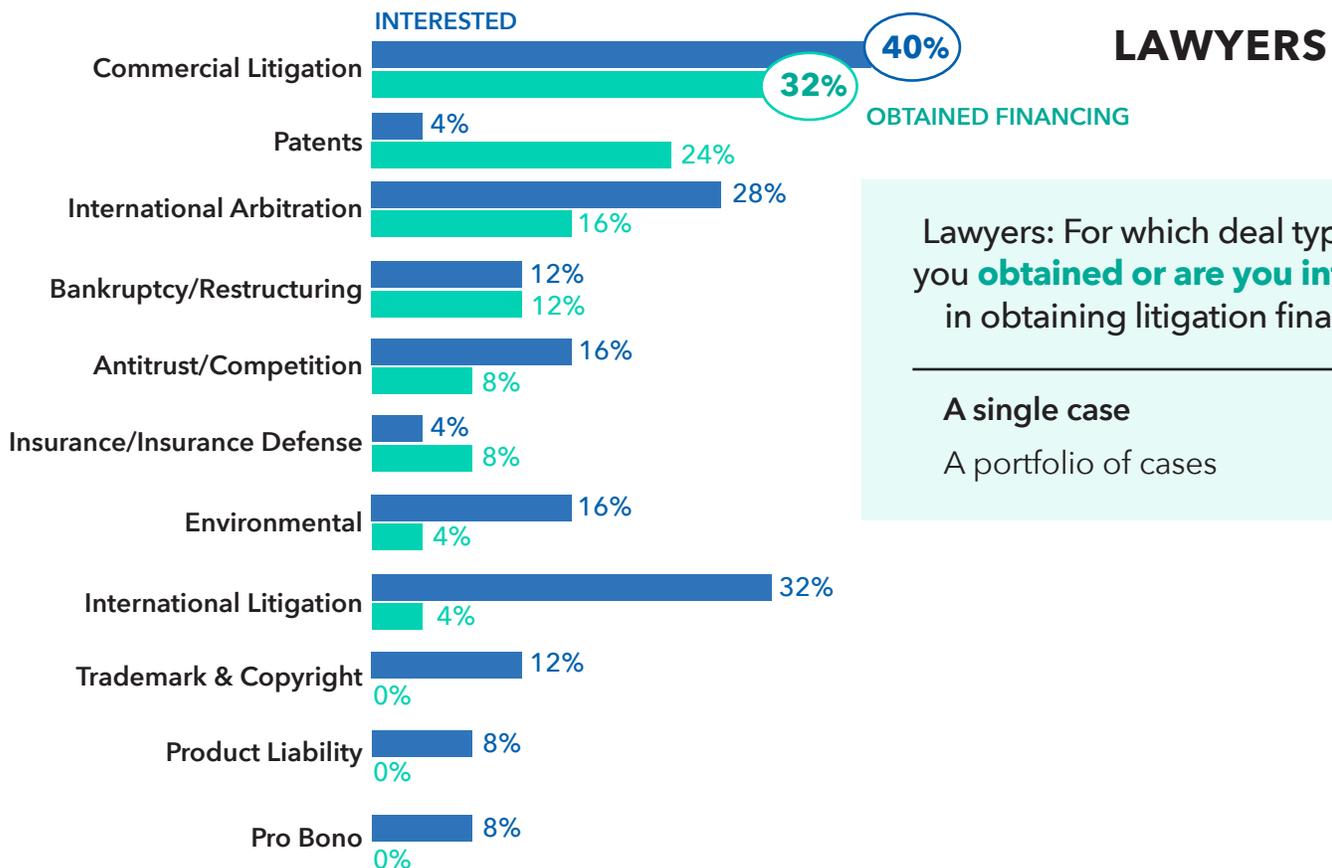
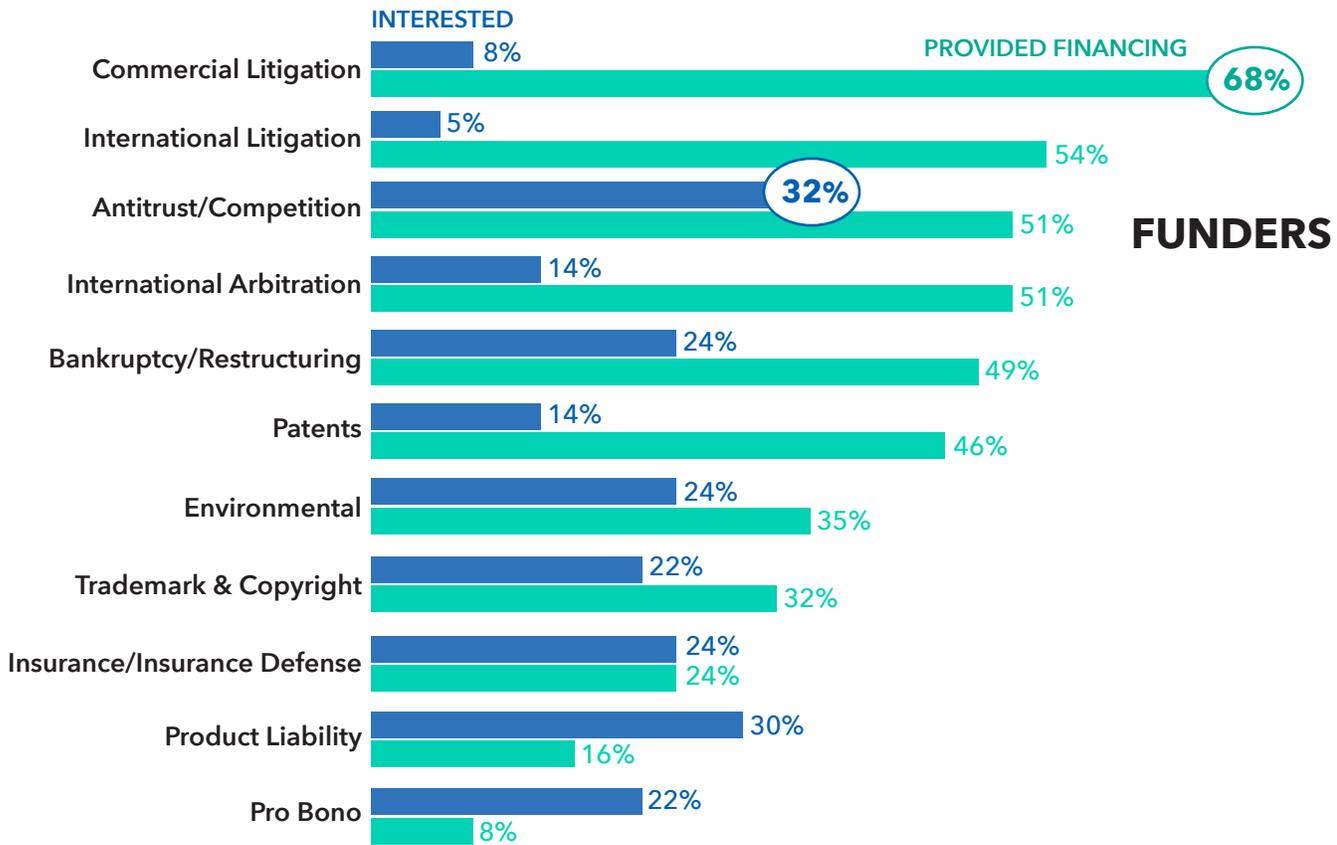
of litigation deals financed are non-recourse.

WHAT FACTORS do lawyers consider important when choosing a funder?



PRACTICE AREAS

Commercial litigation was the most reported practice area for which funders have provided and lawyers have obtained litigation finance, with nearly 70% of funders providing and 32% of lawyers receiving financing in this area. Lawyers' interest in funding generally outpaces how often they have received funding in that practice area.



Lawyers: For which deal types have you **obtained or are you interested** in obtaining litigation financing?

| | |
|----------------------|-----|
| A single case | 78% |
| A portfolio of cases | 48% |

INDUSTRY VIEWS

Generally, lawyers and funders are aligned in most of their attitudes toward the litigation finance industry, and where they deviate, funders are likely to have a more positive view of the industry. Notably, one area of deviation is whether the litigation finance industry has a positive ethical reputation: while two-thirds of funders agree, most lawyers either disagree or are neutral on the topic. Another deviation in attitudes centers around whether disclosure should be mandatory at the start of all cases: nearly 80% of funders believe disclosure should not be mandatory compared to only 34% of lawyers.

DO YOU AGREE with each of the following statements?

AGREE

DISAGREE

The litigation finance industry is **transparent to the general public**.

LAWYERS

22% Agree 22% Neutral 56% Disagree

FUNDERS

39% Disagree

Litigation finance enables **more frivolous lawsuits**.

78% Disagree

97% Disagree

Litigation finance enables **better access to justice**.

88% Agree

100% Agree

Litigation finance currently has a **positive ethical reputation**.

53% Neutral

63% Agree

The industry has **provided funding sources needed** during the economic downturn.

63% Agree

97% Agree

Disclosure of litigation finance deals should be mandatory at the start of all cases.

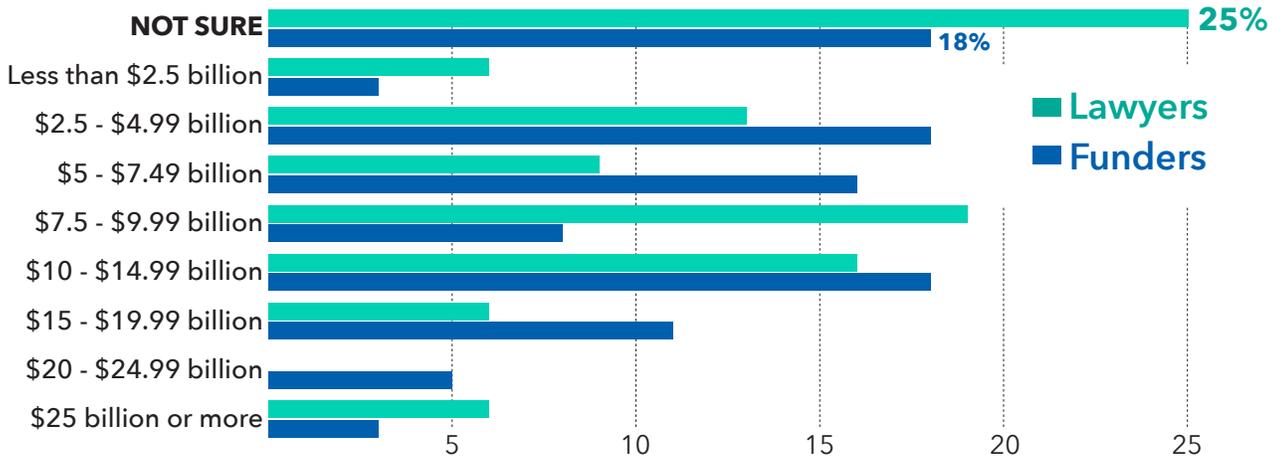
50% Disagree

79% Disagree

MARKET SIZE & GROWTH

Despite challenges presented by the recent economic downturn, both lawyers and funders most frequently report that their business has increased since March 2020.

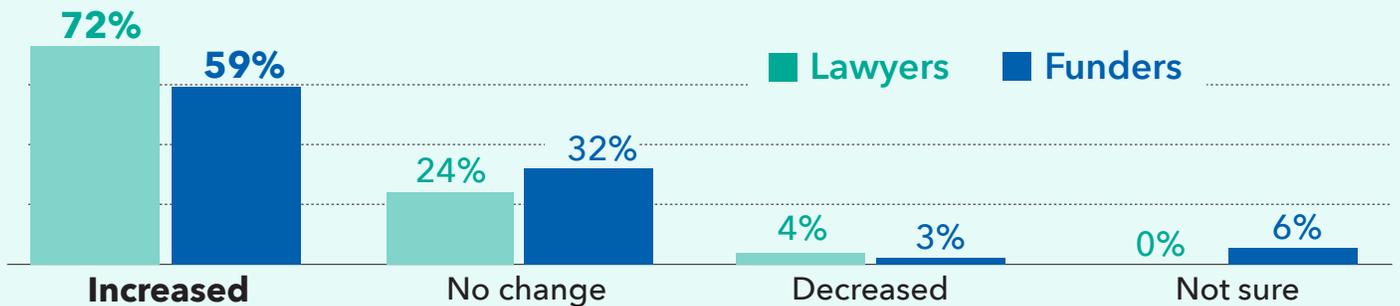
What size do you estimate the current U.S. commercial litigation finance market is?



How is your business performing now compared to before the economic downturn?

72%

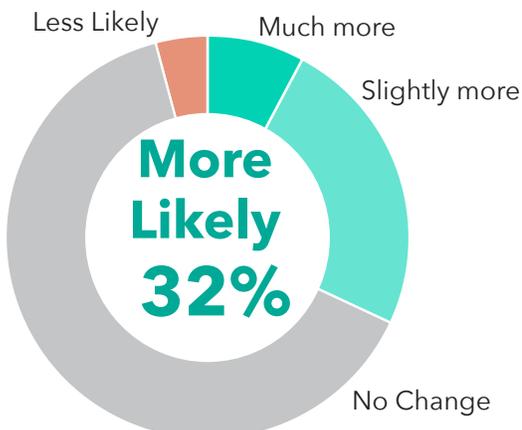
of lawyers report that **business has increased** since the economic downturn began (starting March 2020).



How likely are you to seek litigation funding now due to the economic downturn?

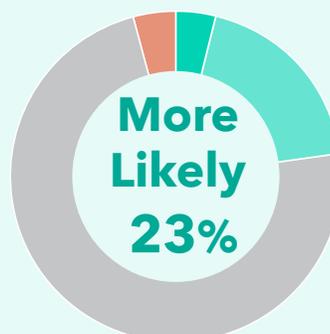
Nearly one-third of lawyers

report that they are more likely to seek litigation financing now.



How likely are you to seek litigation funding **now** compared to...

1 YEAR ago?



5 YEARS ago?



PROFILE of RESPONDENTS

FUNDERS' HQ LOCATIONS



UNITED STATES
29%



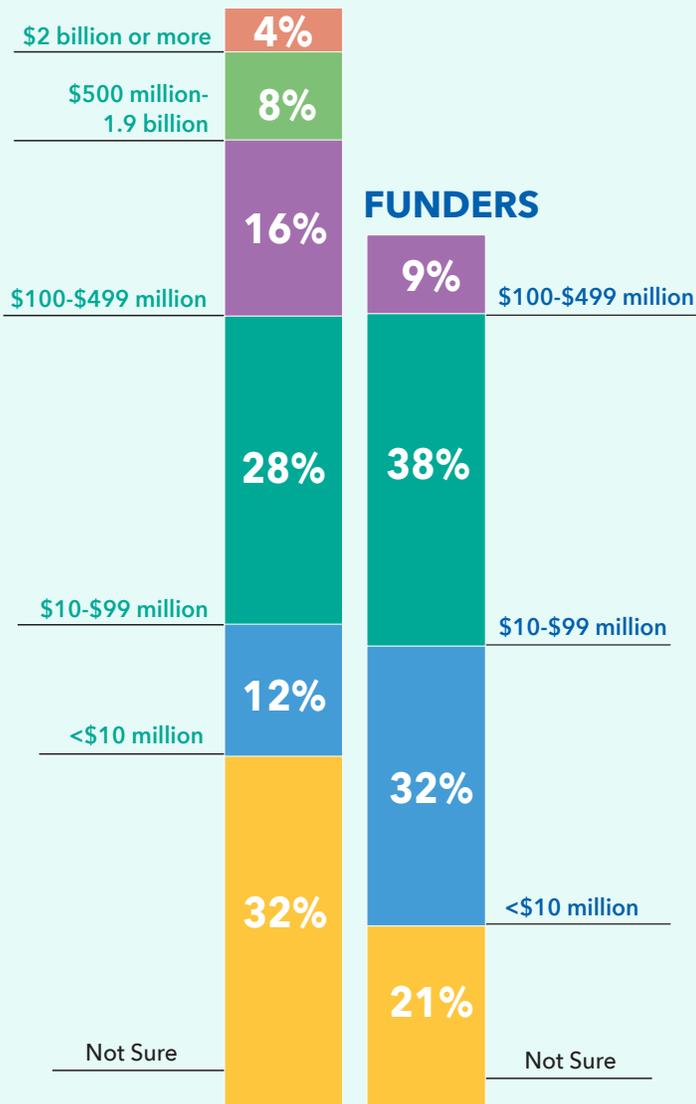
UNITED KINGDOM
44%



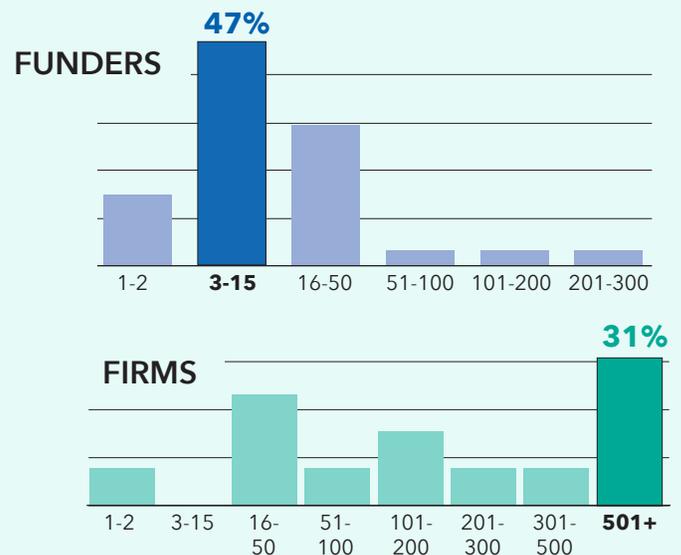
AUSTRALIA
15%

ANNUAL REVENUE

LAWYERS



How many **EMPLOYEES (FUNDERS)** or **PRACTICING LAWYERS (FIRMS)** work at your organization?



FUNDERS: How many **ACTIVE FINANCING MATTERS** do you have at any given time?

| | |
|---------------|------------|
| 1 - 5 | 14% |
| 6 - 15 | 19% |
| 16 - 25 | 19% |
| 26 - 50 | 13% |
| 51 - 100 | 14% |
| More than 100 | 16% |
| Not sure | 5% |