

**WILSON  
SONSINI**

**Silicon Valley 150  
Risk Factor  
Trends Report**



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# INTRODUCTION

Wilson Sonsini Goodrich & Rosati is pleased to present the *Silicon Valley 150 Risk Factor Trends Report*, which analyzes the risk factor practices of the Valley's largest public companies.

This report covers risk factor disclosures in annual report on Form 10-K filings from May 10, 2019, through March 31, 2020, spanning fiscal years ended from March 29, 2019, through February 2, 2020, with the exception of eight companies that were acquired prior to filing their annual reports on Form 10-K for fiscal years that ended during the aforementioned time frame.<sup>1</sup>

Consistent with our [2019 Silicon Valley 150 Corporate Governance Report](#), this report uses the Loneragan SV150, which ranks the top 150 public companies with headquarters in Silicon Valley by annual sales. For more information on the methodology used to prepare the Loneragan SV150, please visit <https://loneraganpartners.com/2018-loneragan-silicon-valley-150-list>.

This report summarizes the risk factor disclosure practices of the SV150 overall, as well as the risk factor disclosure practices in the following categories within the SV150: (1) companies in the S&P 500; (2) the number of years that have elapsed since initial public offering (IPO); (3) annual sales; and (4) industry.

In August 2019, the Securities and Exchange Commission (SEC) proposed amendments to Item 105, *Risk factors*, of Regulation S-K.<sup>2</sup> If finalized in their current form, these amendments would:

- Require summary risk factor disclosure in the forepart of the prospectus or the Form 10-K, as applicable, if the risk factor section exceeds 15 pages. The summary risk factor disclosure would be required to be appropriately titled and comprised of a series of short, concise, bulleted or numbered statements summarizing the principal factors that make an investment in the company or offering speculative or risky.
- Require that companies organize risk factors under relevant headings. If companies disclose generic risk factors, then those risk factors would be required to be disclosed at the end of the risk factor section and under the heading "General Risk Factors."
- Modify the disclosure standard for risk factors from "most significant" risks to "material" risks.

In June 2020, the SEC published its 2020 spring agenda setting out its short-term and long-term rulemaking actions. The proposed amendments to Item 105 of Regulation S-K are on the short-term agenda, meaning that the SEC anticipates completing final rulemaking within the year.

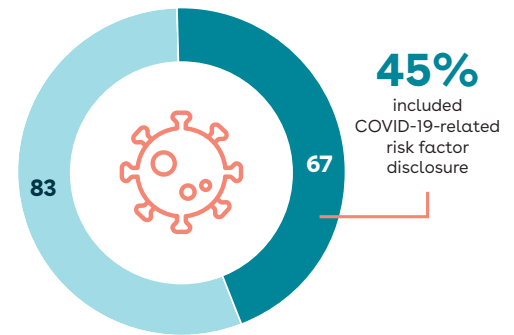
We would like to thank the team that conducted the research and provided editorial input for this report, including partners [Jose Macias](#) and [Lisa Stimmell](#), counsel [Kenisha Nicholson](#), practice support lawyer [Courtney Mathes](#), associates [Rui Ke](#) and [Sean Semmler](#), and law clerks Mallory Davis and Anthony Malone.

Please feel free to share your comments or questions about public companies and risk factor practices by contacting Jose Macias ([jmacias@wsgr.com](mailto:jmacias@wsgr.com)), Lisa Stimmell ([lstimmell@wsgr.com](mailto:lstimmell@wsgr.com)), or any Wilson Sonsini public company representation partner.

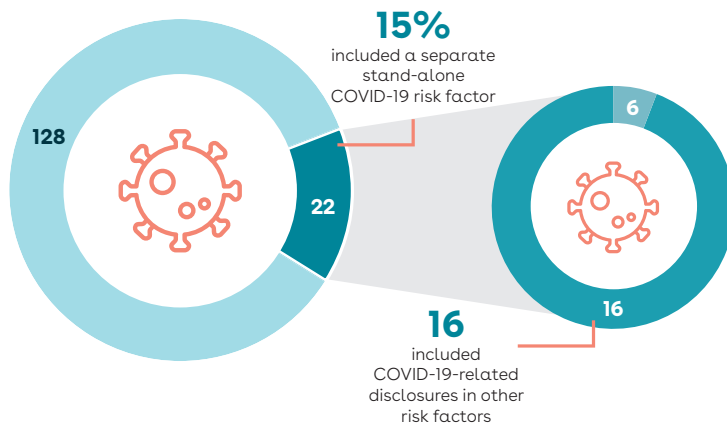
# COVID-19 Impact

We would be remiss if we did not discuss the implications of the novel coronavirus (COVID-19) pandemic on risk factor disclosure. Given the unprecedented impact of the COVID-19 pandemic worldwide, many companies added COVID-19-related risk factor disclosure to their SEC filings. In the Form 10-K filings reviewed for this report, COVID-19-related risk factor disclosure varied—from a separate stand-alone COVID-19 risk factor, to the addition of COVID-19 references in one or two risk factors, to the addition of COVID-19 references in all potentially applicable risk factors, to a combination of the foregoing approaches. As previously noted, this report covers risk factor disclosures in Form 10-Ks filed from early 2019 through March 31, 2020. Given the foregoing timing, the COVID-19-related data that follows is not intended to be indicative of trends in COVID-19 risk factor disclosure; rather, it is presented to show the potential impact that these COVID-19-related disclosures (primarily made in Form 10-Ks filed from late February 2020 through the end of March 2020) had on the total number of pages of risk factors and the total number of risk factors. Of the Form 10-K filings surveyed:

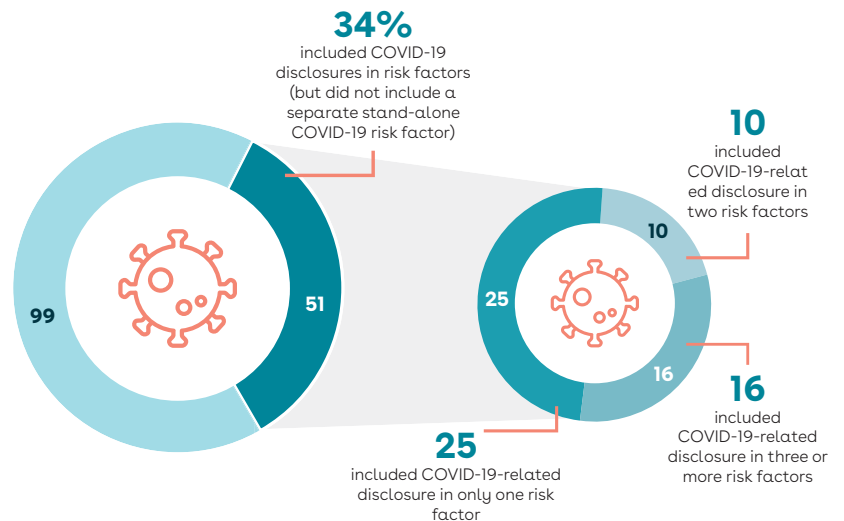
67 companies, or 45%<sup>3</sup> of the SV150, included COVID-19-related risk factor disclosure, whether by adding a separate stand-alone COVID-19 risk factor, by adding COVID-19 references to one or more existing risk factors, or both.



22 companies, or 15% of the SV150, included a separate stand-alone COVID-19 risk factor, of which 16 companies included COVID-19-related disclosures in other risk factors.



51 companies, or 34% of the SV150, included COVID-19 disclosures in their risk factors (but did not include a separate stand-alone COVID-19 risk factor), of which 25 companies included COVID-19-related disclosure in only one risk factor and 10 companies included COVID-19-related disclosure in two risk factors. The remaining 16 companies included COVID-19-related disclosure in three or more risk factors.



# ABOUT THE SV150



The SV150 is released in July of each year by Lonergan Partners, a leading executive recruiting firm, and is comprised of the 150 largest public companies in Silicon Valley, based on annual sales. Among the SV150 are some of the most influential technology, biotech, and pharmaceutical companies in the world. Some have been public for many decades; others completed their IPOs only last year. Most are headquartered along the peninsula between San Francisco and San Jose, but they spread as far north as San Rafael and Hercules, as far east as Livermore, and as far south as Santa Cruz. This section provides an overview of the SV150 rankings, as well as the following categories within the SV150—companies in the S&P 500; the number of years that have elapsed since IPO; annual sales; and industry.



# The Rankings (1-50)

SV150 Rank	IPO Year	Business Description	2018 Sales (\$millions)	Headquarters Location	
1	Apple Inc.	1980	Consumer electronics	\$261,612	Cupertino
2	Alphabet Inc.	2004	Web search, advertising	\$136,819	Mountain View
3	Intel Corporation	1971	Semiconductors	\$70,848	Santa Clara
4	HP Inc.	1957	Imaging, printing, computing devices	\$58,665	Palo Alto
5	Facebook, Inc.	2012	Social networking website	\$55,838	Menlo Park
6	Cisco Systems, Inc.	1990	IT networking services	\$50,825	San Jose
7	Oracle Corp.	1986	IT services, equipment	\$39,778	Redwood City
8	Hewlett Packard Enterprise Co.	2015	IT services, equipment	\$30,731	Palo Alto
9	Gilead Sciences, Inc.	1992	Therapeutic viral medicines	\$22,127	San Mateo
10	Tesla, Inc.	2010	Electric vehicles, battery powertrains	\$21,461	Palo Alto
11	SYNNEX Corp.	2003	IT supply chain services	\$20,054	Fremont
12	Western Digital Corp.	1978	Semiconductors	\$19,391	San Jose
13	Applied Materials, Inc.	1972	Chip-making equipment	\$16,802	Santa Clara
14	Netflix, Inc.	2002	Entertainment distributor	\$15,794	Los Gatos
15	PayPal Holdings, Inc.	2015	Digital payment platform	\$15,451	San Jose
16	salesforce.com, inc.	2004	CRM software	\$13,282	San Francisco
17	NVIDIA Corp.	1999	Graphics processors	\$11,716	Santa Clara
18	Uber Technologies, Inc.	2019	Transportation network company	\$11,270	San Francisco
19	Lam Research Corp.	1984	Chip-making equipment	\$10,872	Fremont
20	eBay Inc.	1998	Online marketplace	\$10,746	San Jose
21	Adobe Inc.	1986	Publishing software	\$9,030	San Jose
22	VMware, Inc.	2007	Virtualization software	\$8,974	Palo Alto
23	Sanmina Corp.	1993	IT manufacturing services	\$7,553	San Jose
24	Advanced Micro Devices, Inc.	1972	Semiconductors	\$6,475	Sunnyvale
25	Intuit Inc.	1993	Financial software	\$6,431	Mountain View
26	NetApp, Inc.	1995	IT storage, management	\$6,195	Sunnyvale
27	Electronic Arts Inc.	1989	Entertainment software	\$5,294	Redwood City
28	Equinix, Inc.	2000	IT data centers	\$5,072	Redwood City
29	Agilent Technologies, Inc.	1999	Electronic measurement tools	\$4,987	Santa Clara
30	Symantec (NortonLifeLock Inc.)	1989	Computer security	\$4,752	Mountain View
31	Juniper Networks, Inc.	1999	Networking tools	\$4,648	Sunnyvale
32	KLA Corp.	1980	Chip-making equipment	\$4,304	Milpitas
33	Intuitive Surgical, Inc.	2000	Robotic surgical systems	\$3,724	Sunnyvale
34	Square, Inc.	2015	Mobile payment solutions	\$3,298	San Francisco
35	Synopsys, Inc.	1992	Chip-design software	\$3,172	Mountain View
36	Trimble Inc.	1990	Global-positioning tools	\$3,108	Sunnyvale
37	Twitter, Inc.	2013	Multimedia messaging	\$3,042	San Francisco
38	Varian Medical Systems, Inc.	1999	Cancer-fighting equipment	\$2,982	Palo Alto
39	Xilinx, Inc.	1990	Semiconductors	\$2,904	San Jose
40	Marvell Technology Group Ltd.	2000	Semiconductors	\$2,866	Santa Clara
41	Workday, Inc.	2012	Enterprise software	\$2,822	Pleasanton
42	ServiceNow, Inc.	2012	IT management software	\$2,609	Santa Clara
43	Palo Alto Networks, Inc.	2012	Network security	\$2,592	Santa Clara
44	Autodesk, Inc.	1985	Design software	\$2,570	San Rafael
45	Maxim Integrated Products, Inc.	1988	Semiconductors	\$2,497	San Jose
46	Cypress Semiconductor Corp.	1986	Semiconductors	\$2,484	San Jose
47	Bio-Rad Laboratories, Inc.	1980	Life science research tools	\$2,289	Hercules
48	Lyft, Inc.	2019	Transportation network company	\$2,157	San Francisco
49	Arista Networks, Inc.	2014	Cloud networking equipment	\$2,151	Santa Clara
50	Cadence Design Systems, Inc.	1988	Chip-design software	\$2,138	San Jose

SOURCE: LONERGAN SV150

# The Rankings (51-100)

SV150 Rank	IPO Year	Business Description	2018 Sales (\$millions)	Headquarters Location	
51	Align Technology, Inc.	2001	Orthodontic devices	\$1,966	San Jose
52	Shutterfly, Inc	2006	Photo-based community	\$1,962	Redwood City
53	Coherent, Inc.	1978	Laser-based photonics	\$1,808	Santa Clara
54	Splunk Inc.	2012	Web data analysis software	\$1,803	San Francisco
55	Fortinet, Inc.	2009	Network security devices, software	\$1,801	Sunnyvale
56	SunPower Corp.	2005	Solar energy products	\$1,726	San Jose
57	Synaptics	2002	Touch-based information tech.	\$1,627	San Jose
58	Fitbit, Inc.	2015	Wearable wireless fitness devices	\$1,512	San Francisco
59	Plantronics, Inc.	1994	Telecommunication and audio devices	\$1,422	Santa Cruz
60	Dropbox, Inc.	2018	Web-based content sharing platform	\$1,392	San Francisco
61	Stitch Fix, Inc.	2017	Personalized online retail service	\$1,371	San Francisco
62	Pure Storage, Inc.	2015	Data storage solutions	\$1,360	Mountain View
63	Lumentum Holdings Inc.	2015	Optical and photonic products	\$1,328	Milpitas
64	Finisar Corp.	1999	Fiber optic, network test systems	\$1,280	Sunnyvale
65	Nutanix, Inc.	2016	Cloud platform infrastructure	\$1,242	San Jose
66	Nektar Therapeutics	1994	Biopharmaceuticals	\$1,193	San Francisco
67	Dolby Laboratories, Inc.	2005	Audio processing technology	\$1,187	San Francisco
68	GoPro, Inc.	2014	Wearable, gear-mountable cameras	\$1,148	San Mateo
69	Ubiquiti Inc.	2011	Wireless networking products	\$1,110	San Jose
70	Ultra Clean Holdings, Inc.	2004	Chip-making equipment	\$1,097	Hayward
71	Mellanox Technologies, Ltd.	2007	Semiconductors	\$1,089	Sunnyvale
72	Fair Isaac Corp.	1987	Enterprise analytics software	\$1,059	San Jose
73	NETGEAR, Inc.	2003	Home, small business networking	\$1,059	San Jose
74	Viavi Solutions Inc.	1993	Optical telecommunications	\$1,059	Milpitas
75	Extreme Networks, Inc.	1999	LAN switching tools	\$1,033	San Jose
76	EFI Electronics Corp.	1992	Networked computer printing	\$1,015	Fremont
77	Infinera Corp.	2007	Optical telecom equipment	\$943	Sunnyvale
78	Yelp Inc.	2012	User review network	\$943	San Francisco
79	Zynga Inc.	2011	Social gaming	\$907	San Francisco
80	Veeva Systems Inc.	2013	Cloud-based business software	\$862	Pleasanton
81	Exelixis, Inc.	2000	Small-molecule cancer treatments	\$854	So. San Francisco
82	FireEye, Inc.	2013	Network security	\$831	Milpitas
83	ICHOR Holdings, Ltd.	2016	Semiconductors	\$824	Fremont
84	Omniceil, Inc.	2001	Medication management technology	\$787	Mountain View
85	Sunrun Inc.	2015	Solar energy products	\$760	San Francisco
86	Pinterest, Inc.	2019	Social photo sharing platform	\$756	San Francisco
87	Roku, Inc.	2017	Entertainment streaming	\$743	Los Gatos
88	Guidewire Software, Inc.	2012	Insurance industry software	\$738	San Mateo
89	Proofpoint, Inc.	2012	Data protection software	\$717	Sunnyvale
90	DocuSign, Inc.	2018	Electronic verification software	\$701	San Francisco
91	TiVo Corp.	1997	Entertainment delivery tools	\$696	San Jose
92	RingCentral, Inc.	2013	IP-based telephony	\$674	Belmont
93	Pivotal Software, Inc.	2018	High-performance computing software	\$657	San Francisco
94	Twilio Inc.	2016	Internet infrastructure solutions	\$650	San Francisco
95	LendingClub Corp.	2014	Internet-based lending facilitation	\$650	San Francisco
96	Box, Inc.	2015	Content-sharing platform	\$608	Redwood City
97	Zendesk, Inc.	2014	Web-based help desk software	\$599	San Francisco
98	Natus Medical, Inc.	2001	Devices to treat newborn disorders	\$531	Pleasanton
99	FormFactor, Inc.	2003	Chip-making equipment	\$530	Livermore
100	Cloudera, Inc.	2017	AI-based analytics platform	\$480	Palo Alto

SOURCE: LONERGAN SV150

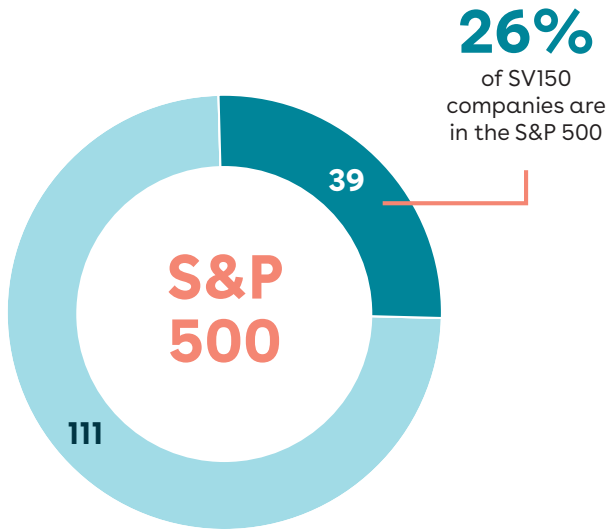
# The Rankings (101-150)

SV150 Rank	IPO Year	Business Description	2018 Sales (\$millions)	Headquarters Location	
101	WageWorks, Inc.	2012	Employee benefits mgmt	\$473	San Mateo
102	QuinStreet, Inc.	2010	Internet marketing tools	\$446	San Mateo
103	New Relic, Inc.	2014	Cloud-based application management	\$446	San Francisco
104	Penumbra, Inc.	2015	Medical devices for stroke patients	\$445	Alameda
105	Alpha and Omega Semi. Ltd	2010	Semiconductors	\$443	Sunnyvale
106	Power Integrations, Inc.	1997	Power-conversion chips	\$416	San Jose
107	Accuray, Inc.	2007	Robotic radiosurgery systems	\$412	Sunnyvale
108	Xperi Corp.	2003	Chip scale packaging	\$406	San Jose
109	Harmonic, Inc.	1995	Content delivery service	\$404	San Jose
110	Okta, Inc.	2017	Identity management software	\$399	San Francisco
111	Genomic Health, Inc.	2005	Cancer diagnostics	\$394	Redwood City
112	Nevro Corp.	2014	Pain relief products	\$387	Redwood City
113	Quotient Technology Inc.	2014	Online promotion platform	\$387	Mountain View
114	Glu Mobile, Inc.	2007	Mobile games	\$367	San Francisco
115	8X8, Inc.	1997	VoIP platforms	\$338	San Jose
116	Zoom Video Comms., Inc.	2019	Web conferencing platform	\$331	San Jose
117	Nanometrics (Onto Innov. Inc.)	1984	Chip-making equipment	\$325	Milpitas
118	NeoPhotonics Corp	2011	Planar light wave circuits	\$323	San Jose
119	Chegg, Inc.	2013	Education software platform	\$321	Santa Clara
120	Forescout Technologies, Inc.	2017	Security software	\$298	San Jose
121	Inphi Corp.	2010	High-speed analog semiconductors	\$294	Santa Clara
122	Eventbrite, Inc.	2018	Online event ticketing	\$292	San Francisco
123	Qualys, Inc.	2012	IT security and compliance services	\$279	Redwood City
124	Coupa Software Inc.	2016	Cloud procurement software	\$260	San Mateo
125	Five9, Inc.	2014	Cloud contact center software	\$258	San Ramon
126	Natera, Inc.	2015	Genetic testing services	\$258	San Carlos
127	SVMK Inc. (SurveyMonkey)	2018	Online survey platform	\$254	San Mateo
128	Upwork, Inc.	2018	Freelancer marketplace	\$253	Mountain View
129	Aviat Networks, Inc.	2010	Internet telephony services	\$251	Milpitas
130	Corcept Therapeutics Inc.	2004	Cortisol regulating pharmaceuticals	\$251	Menlo Park
131	Zscaler, Inc.	2018	Cloud-based security	\$243	San Jose
132	Anaplan, Inc.	2018	Financial planning software	\$241	San Francisco
133	ServiceSource Int., Inc.	2011	Cloud apps for service industries	\$238	San Francisco
134	Zuora, Inc	2018	Subscription management software	\$235	San Jose
135	A10 Networks, Inc.	2014	Networking products	\$232	Sunnyvale
136	Rambus Inc.	1997	Semiconductor technology	\$231	Santa Clara
137	Ambarella, Inc.	2012	Semiconductors for imaging	\$228	Fremont
138	Quantenna Comms., Inc.	2016	Wi-Fi, semiconductor solutions	\$220	San Francisco
139	FibroGen, Inc.	2014	Development stage pharmaceuticals	\$213	Mountain View
140	MobileIron, Inc.	2014	Software platform for mobile devices	\$193	San Jose
141	Vocera Communications, Inc.	2012	Mobile communication for healthcare	\$180	San Mateo
142	Aemetis, Inc.	2007	Renewable fuels, specialty chemicals	\$172	Cupertino
143	Cutera, Inc.	2004	Laser-based medical devices	\$163	Brisbane
144	Castlight Health, Inc.	2014	Cloud-based healthcare navigation	\$156	San Francisco
145	Aerohive Networks, Inc.	2014	Wireless infrastructure equipment	\$155	Milpitas
146	Model N, Inc.	2013	Revenue management software	\$151	San Mateo
147	iRhythm Technologies, Inc.	2016	Ambulatory cardiac monitoring	\$147	San Francisco
148	Fastly, Inc.	2019	Website speed platform	\$145	San Francisco
149	Telenav, Inc.	2010	GPS tools for mobile phones	\$140	Santa Clara
150	Sonim Technologies, Inc.	2019	Mobile devices for rugged uses	\$136	San Mateo

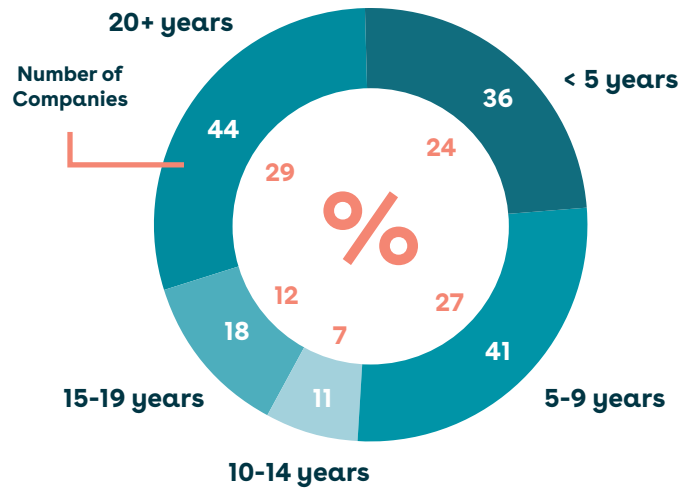
SOURCE: LONERGAN SV150



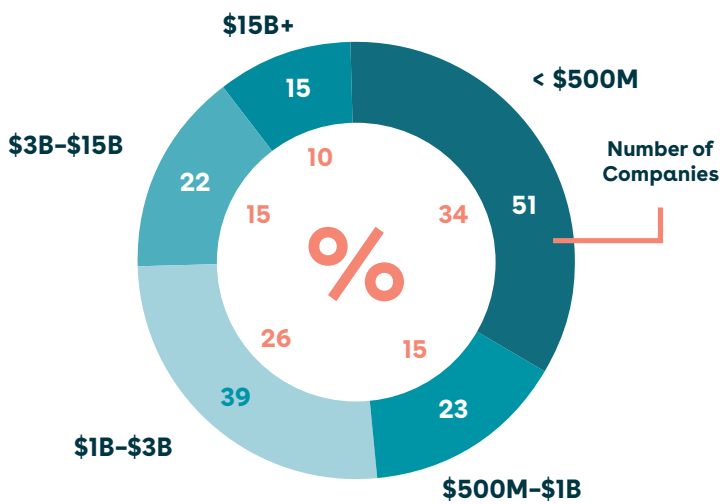
## S&P 500



## Years Since IPO\*



## Annual Sales\*

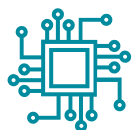


\* This report utilizes the 2019 Lonerger SV150; therefore, the number of years that have elapsed since IPO is measured from 2019, not 2020, and the annual sales are based on 2018 annual sales.

# Industry

Industry has been determined by each company’s Standard Industrial Classification Code (SIC code) and the applicable SEC review office for that SIC code. There are six industries represented by the SV150.<sup>4</sup>

*Includes SIC codes:*



## Technology

- |  |   |
|--|---|
| 3559 (Special Industry Machinery, Not Elsewhere Classified)    | 4841 (Cable and Other Pay Television Services)                          |
| 3570 (Computer and Office Equipment)                           | 7370 (Computer and Data Processing Services)                            |
| 3571 (Electronic Computers)                                    | 7371 (Computer Programming Services)                                    |
| 3572 (Computer Storage Devices)                                | 7372 (Prepackaged Software)   |
| 3576 (Computer Communications Equipment)                       | 7373 (Computer Integrated Systems Design)                               |
| 3577 (Computer Peripheral Equipment, Not Elsewhere Classified) | 7374 (Computer Processing and Data Preparation and Processing Services) |



## Manufacturing

- |   |  |
|---|--|
| 3430 (Plumbing and Heating, Except Electric)                          | 3672 (Printed Circuit Boards)                  |
| 3661 (Telephone and Telegraph Apparatus)                              | 3674 (Semiconductors and Related Devices)      |
| 3663 (Radio and Television Broadcasting and Communications Equipment) | 3711 (Motor Vehicles and Passenger Car Bodies) |
| 3669 (Communications Equipment, Not Elsewhere Classified)             |  |



## Life Sciences

- |  |   |
|--|---|
| 2834 (Pharmaceutical Preparations)   | 3829 (Measuring and Controlling Devices, Not Elsewhere Classified)  |
| 2836 (Biological Products, Except Diagnostics Substances)  | 3841 (Surgical and Medical Instruments and Apparatus)               |
| 2860 (Industrial Organic Chemicals)  | 3842 (Orthopedic, Prosthetic, and Surgical Appliances and Supplies) |
| 3812 (Search, Detection, Navigation, Guidance, Aeronautical, and Nautical Systems and Instruments) | 3845 (Electromedical and Electrotherapeutic Apparatus)              |
| 3826 (Laboratory Analytical Instruments)   | 3861 (Photographic Equipment and Supplies)                          |
| 3827 (Optical Instruments and Lenses)  | 8071 (Medical Laboratories)   |



## Trade and Services

- |   |  |
|---|--|
| 5045 (Computers and Computer Peripheral Equipment and Software) | 7389 (Business Services Not Elsewhere Classified)  |
| 5961 (Catalog and Mail-Order Houses)                            | 7841 (Video Tape Rental)                           |
| 7200 (Personal Services)  | 8200 (Educational Services)                        |
| 7310 (Advertising)  | 8731 (Commercial Physical and Biological Research) |
| 7384 (Photofinishing Laboratories)                              |  |



## Real Estate and Construction

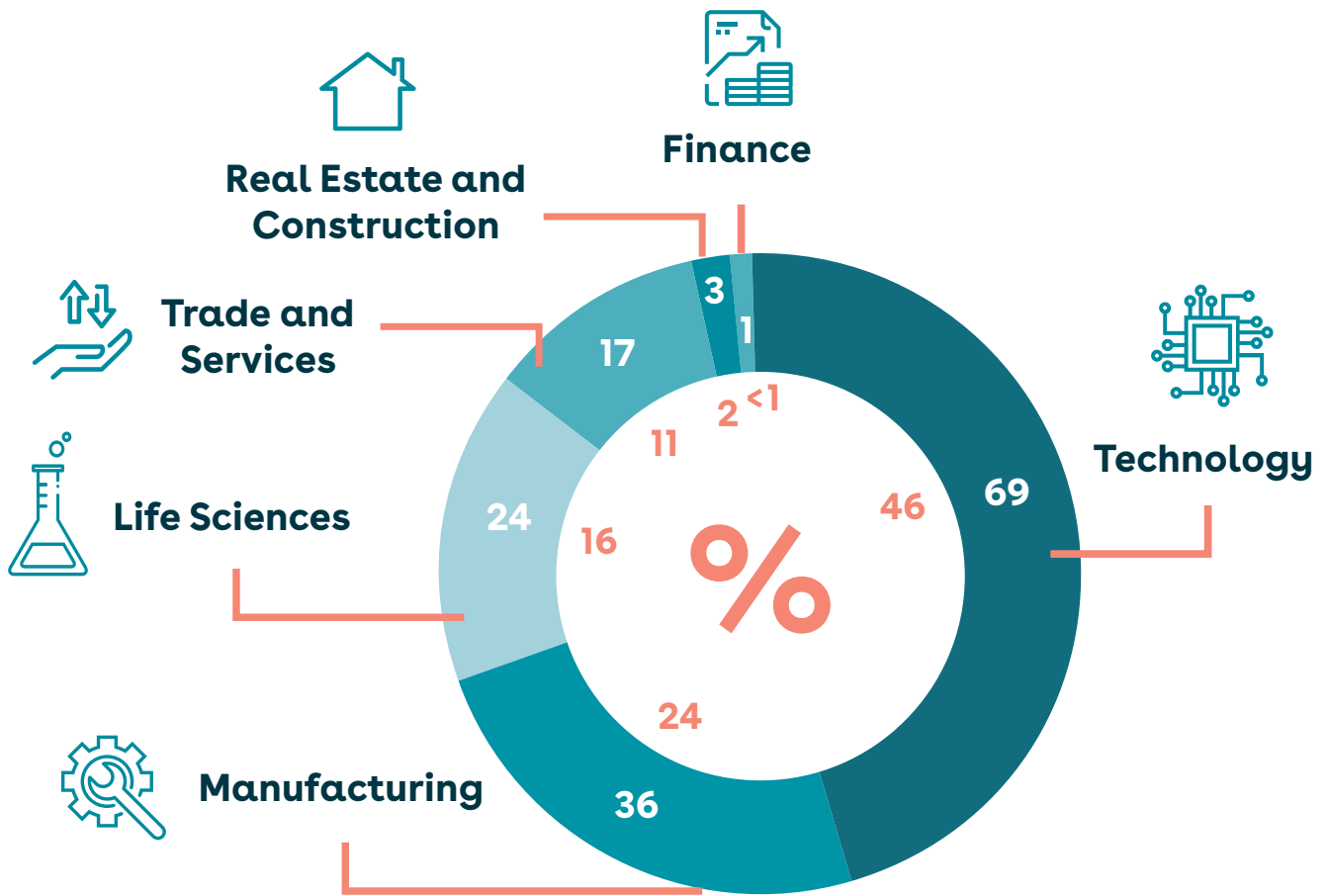
- |                                |                                      |
|--------------------------------|--------------------------------------|
| 6794 (Patent Owners & Lessors) | 6798 (Real Estate Investment Trusts) |
|--------------------------------|--------------------------------------|



## Finance

- |                                     |
|-------------------------------------|
| 6141 (Personal Credit Institutions) |
|-------------------------------------|

## Breakdown by Industry



# TOTAL NUMBER OF PAGES OF RISK FACTORS

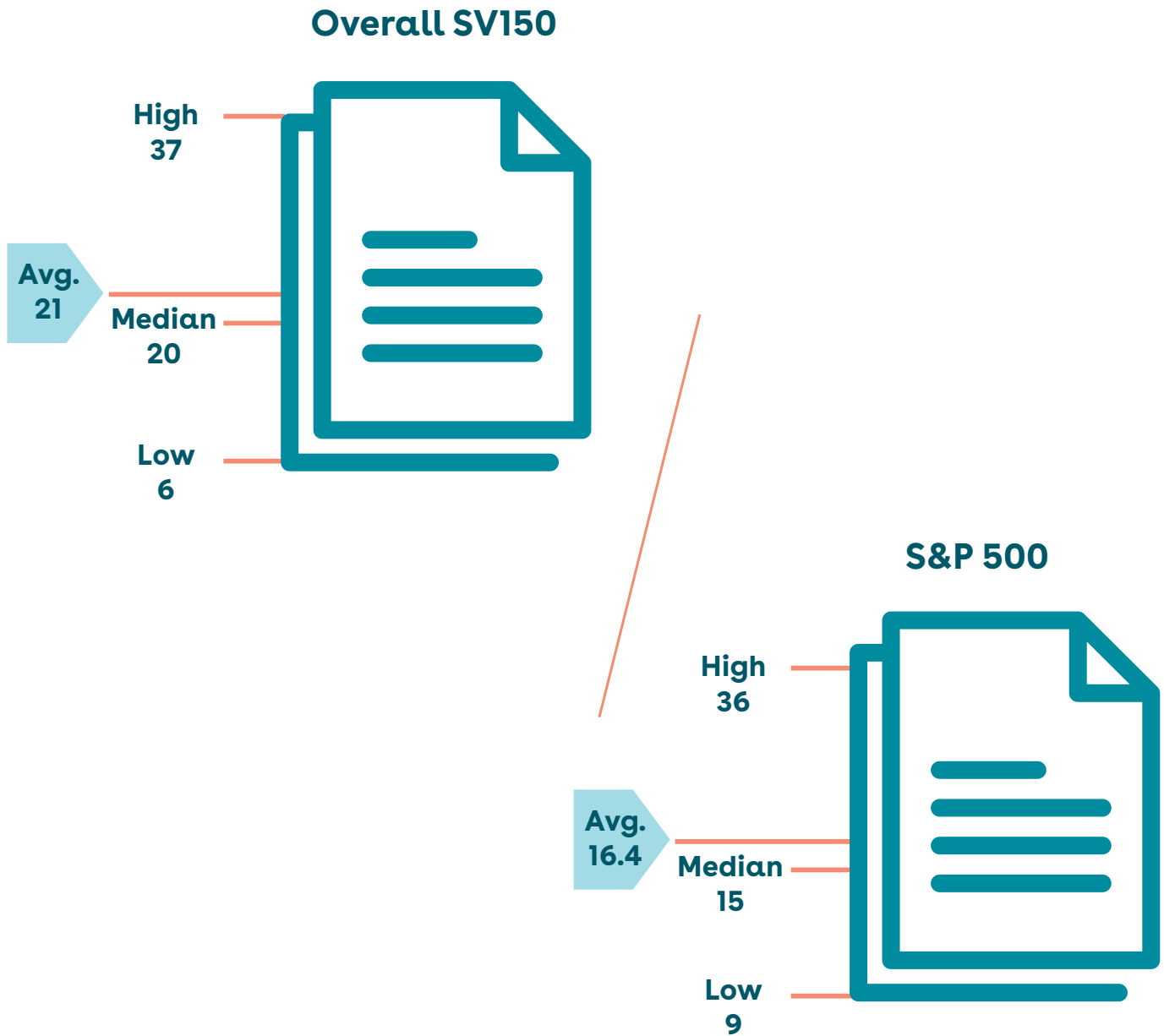


As previously noted, the SEC has proposed to require companies to include summary risk factor disclosure if their risk factors exceed 15 pages. According to the SEC and based on studies that it cites in its proposing release, it believes that risk factor disclosures have increased in recent years, possibly by more than 50 percent in some instances.<sup>5</sup> This section provides a current summary of the length of risk factor disclosures by total number of pages of risk factors<sup>6</sup> across the SV150, and includes some general trends drawn from this data.



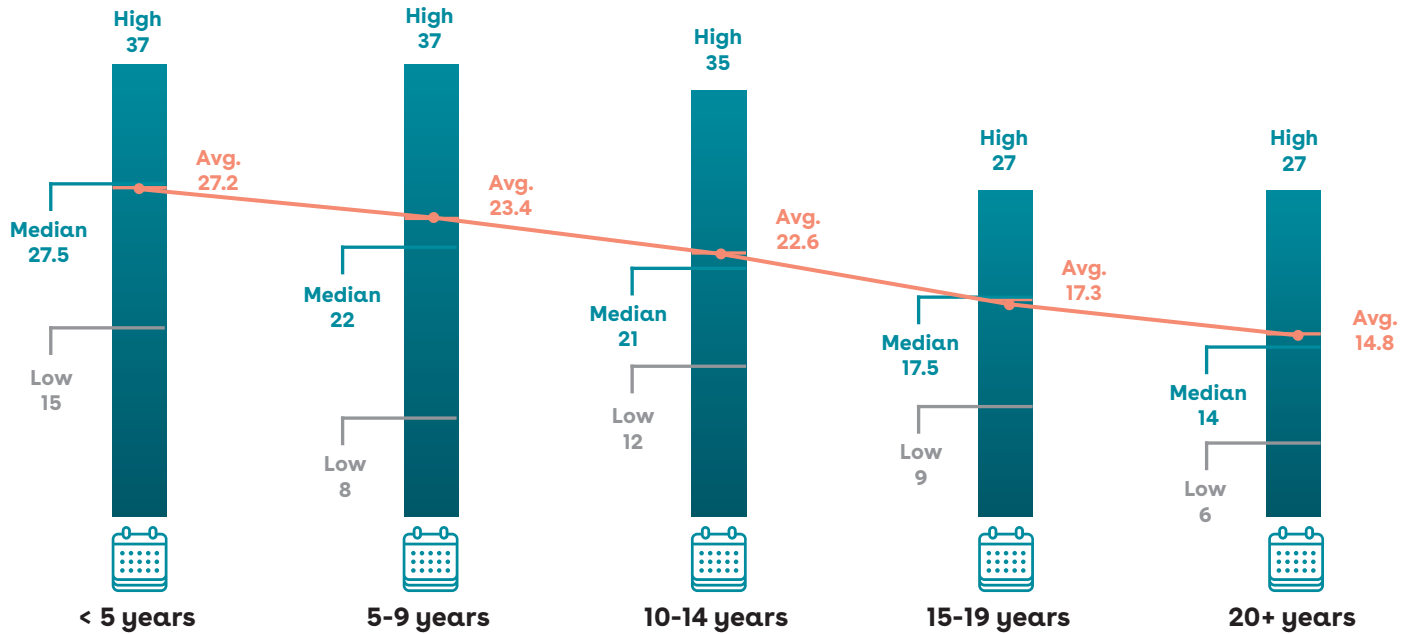
## SV150 and S&P 500

Overall in the SV150, the total number of pages of risk factors ranged from a low of 6 pages to a high of 37 pages, with an average of approximately 21 pages. The S&P 500 companies represented in the SV150 average approximately 16.4 pages of risk factors, or 22% fewer total pages of risk factors than the overall SV150.



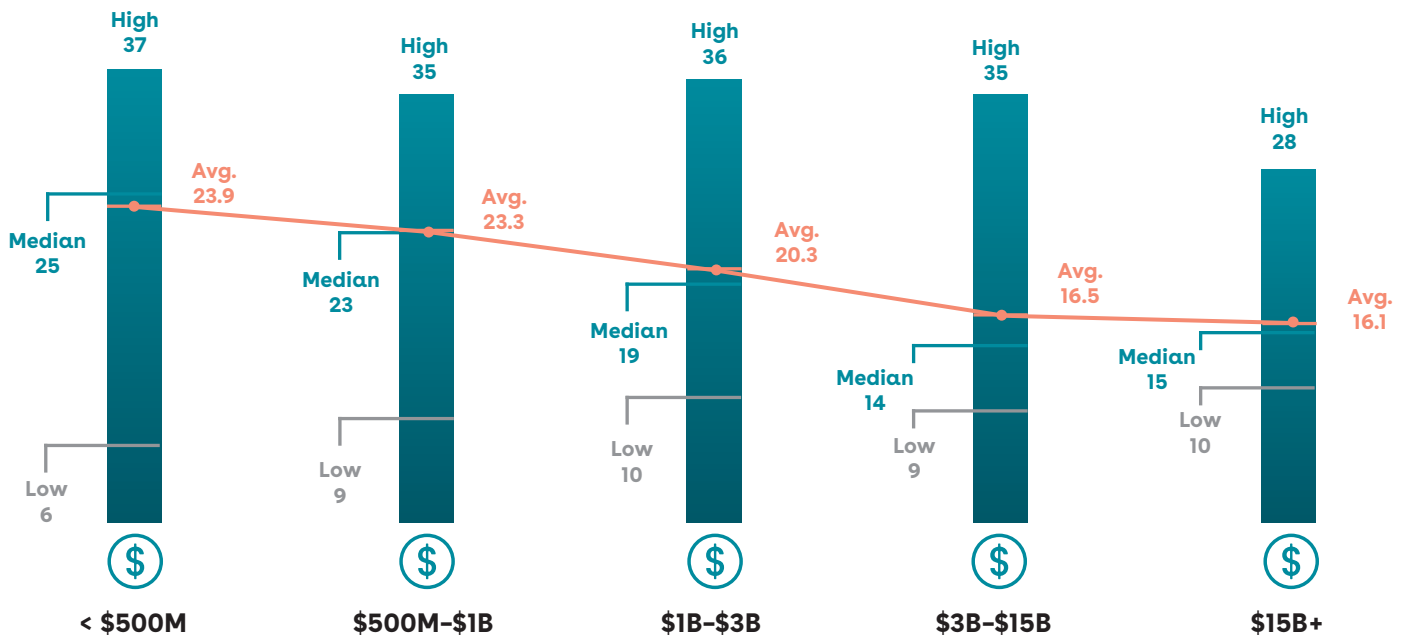
## Years Since IPO

As more time elapses since the IPO, the average total number of pages of risk factors decreases. Companies that went public within the past five years average approximately 27.2 pages of risk factors, while companies that went public at least 20 years ago average approximately 14.8 pages of risk factors, a 46% decrease.



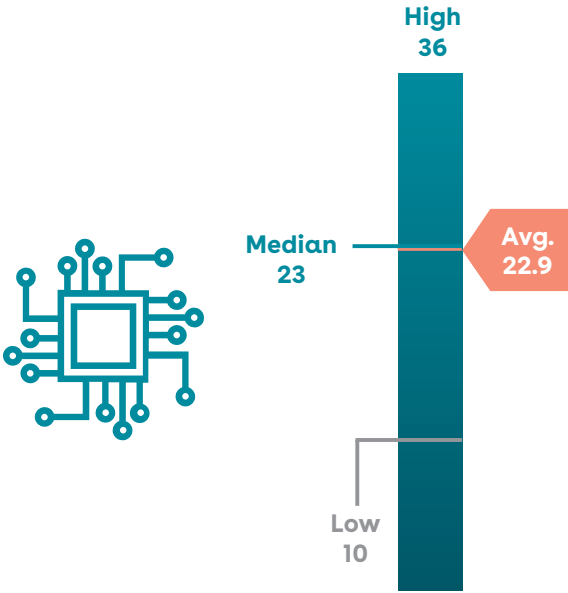
## Annual Sales

As annual sales increase, the average total number of pages of risk factors decreases. Companies with less than \$500 million in annual sales average approximately 23.9 pages of risk factors, while companies with \$15 billion or more in annual sales average approximately 16.1 pages, a 33% decrease.

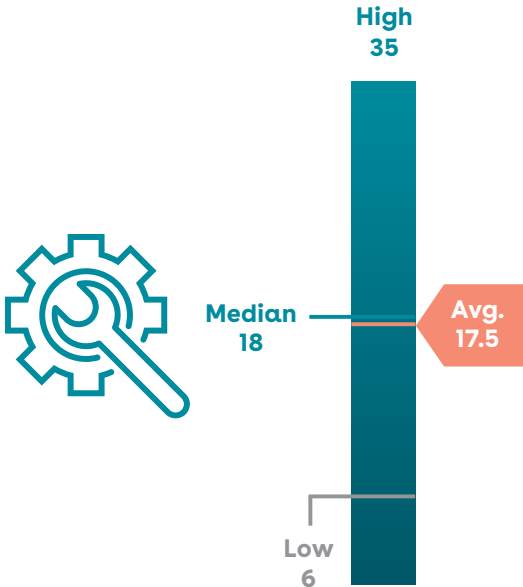


# Industry

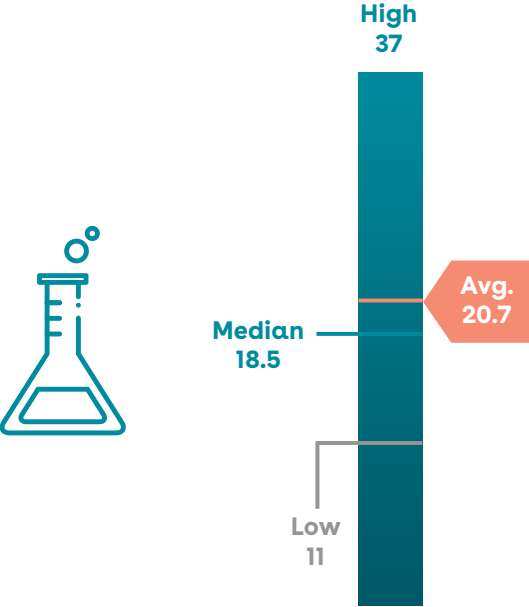
Companies in the technology industry average the highest total number of pages of risk factors at approximately 22.9 pages, while companies in the manufacturing industry average the lowest total number of pages of risk factors at approximately 17.5 pages, or 23% fewer pages than companies in the technology industry. Companies in the life sciences and trade and services industries fall between the technology and manufacturing industries, each averaging approximately 20.7 total pages of risk factors.



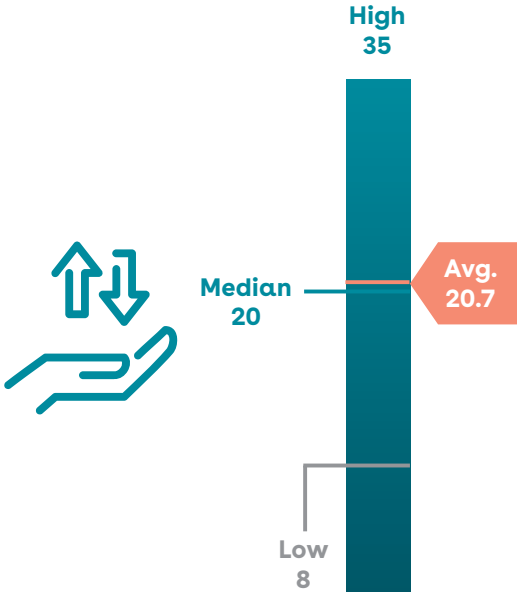
Technology



Manufacturing



Life Sciences



Trade and Services

# TOTAL NUMBER OF RISK FACTORS



The number of risk factors in a company's Form 10-K filing may increase or decrease at various times during its life cycle. An increase in the number of risk factors may occur for any number of reasons, including due to specific events, such as an impending material merger or acquisition, following the issuance of convertible notes by the company, or due to an expansion of the business into other areas. A decrease in the number of risk factors may similarly occur for any number of reasons, including changing materiality considerations, particularly as revenues increase, or where certain risks may no longer be applicable to companies that have been public for many years (for example, risks relating to emerging growth company status or risks relating to dual-class stock that was subject to a sunset provision).

Similar to the total number of pages of risk factors, the total number of risk factors varies widely by company. Not surprisingly, there tends to be a correlation between the total number of pages of risk factors and the total number of risk factors; that is, as the number of total pages of risk factors increases, the total number of risk factors tends to increase, and vice versa. This section provides a current summary of the total number of risk factors included in risk factor disclosures across the SV150, and includes some general trends drawn from this data.

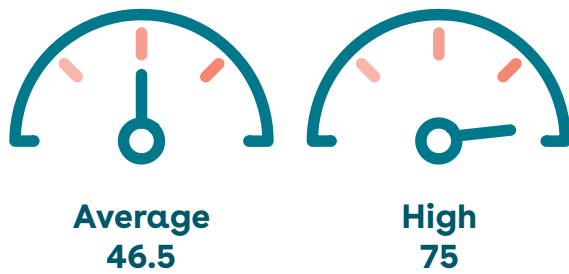
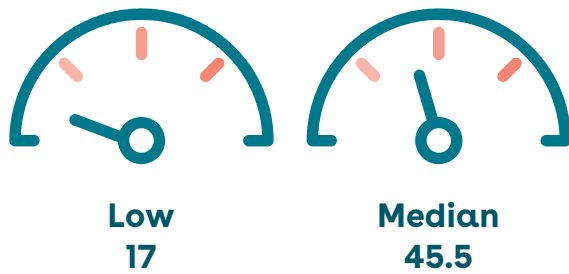




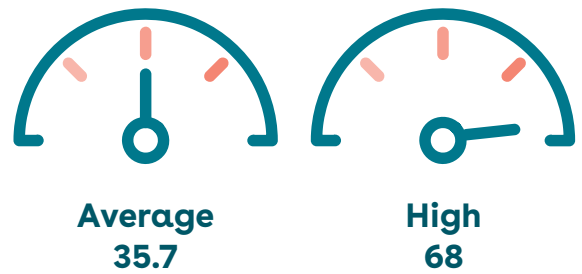
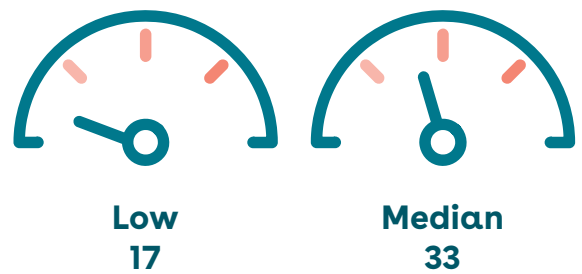
## SV150 and S&P 500

Overall in the SV150, the total number of risk factors ranges from a low of 17 to a high of 75 risk factors, with an average of approximately 46.5 risk factors. The S&P 500 companies represented in the SV150 average approximately 35.7 risk factors, or 23% fewer total risk factors than the overall SV150.

### Overall SV150

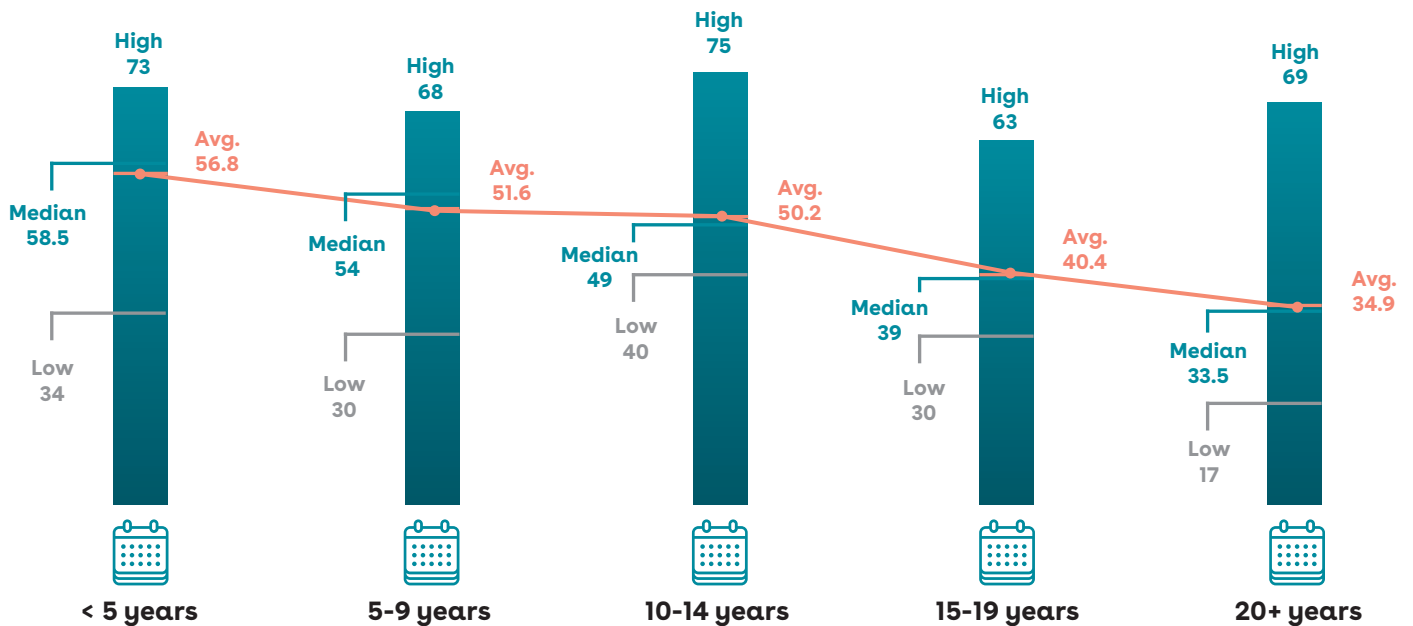


### S&P 500



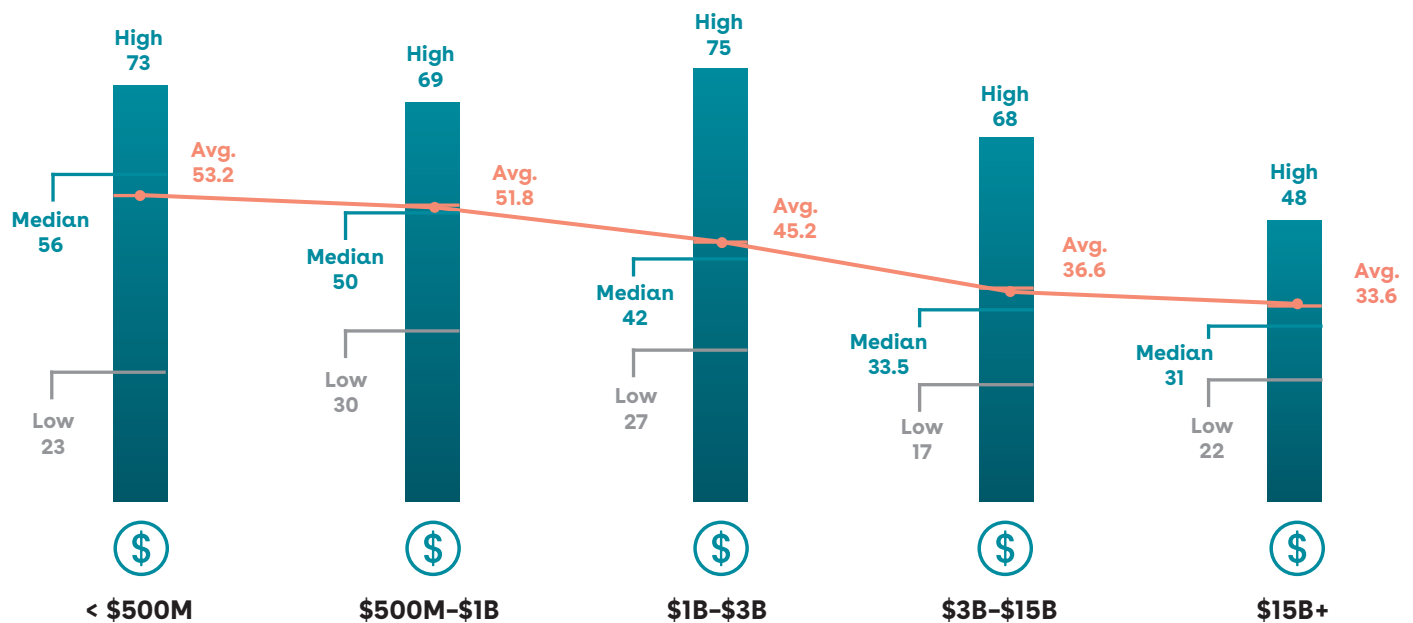
## Years Since IPO

As more time elapses since the IPO, the average total number of risk factors decreases. Companies that went public within the past five years average approximately 56.8 risk factors, while companies that went public at least 20 years ago average approximately 34.9 risk factors, a 39% decrease.



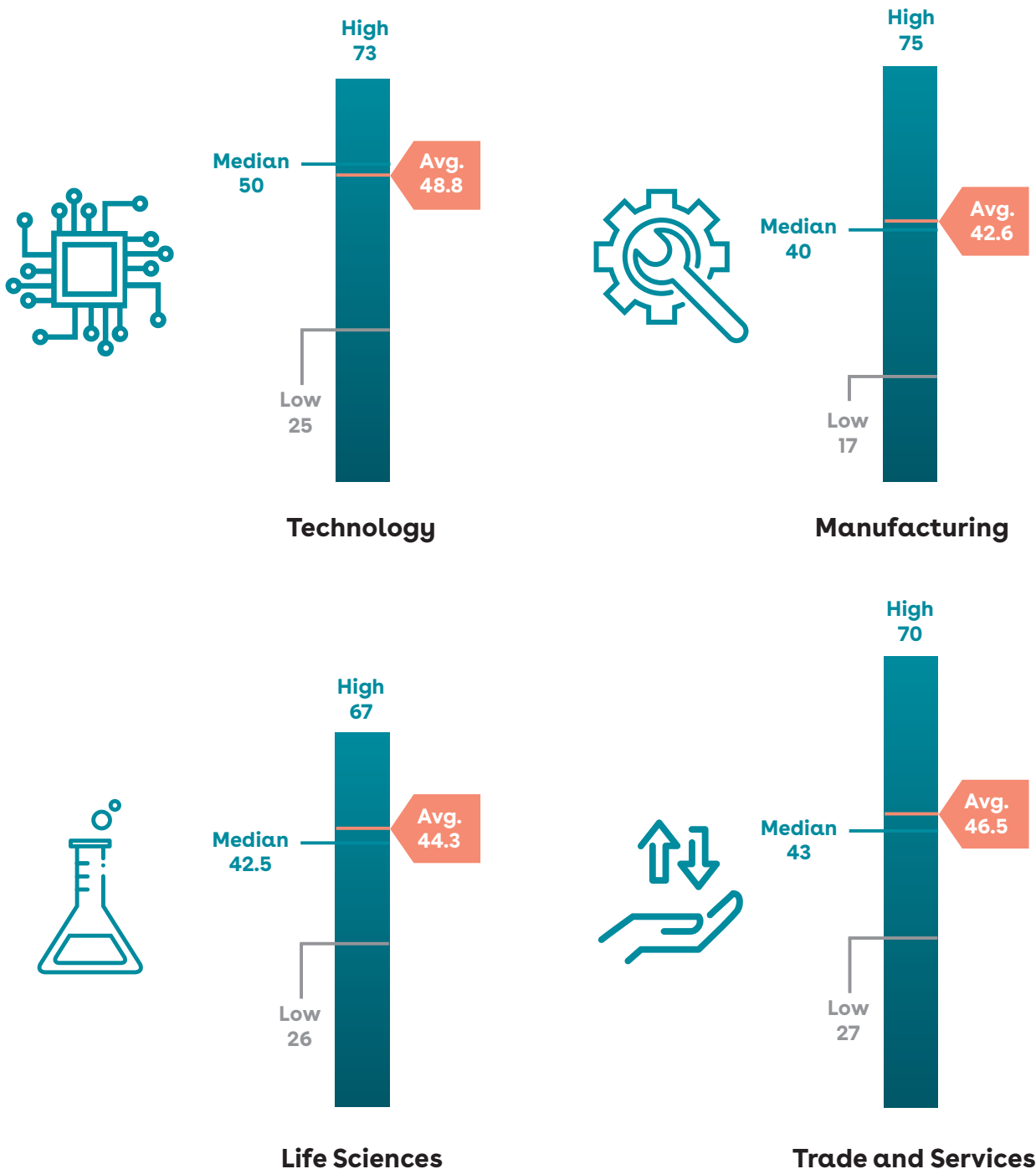
## Annual Sales

As annual sales increase, the average total number of risk factors decreases. Companies with less than \$500 million in annual sales average approximately 53.2 risk factors, while companies with \$15 billion or more in annual sales average approximately 33.6 risk factors, a 37% decrease.



# Industry

Companies in the technology industry average the highest total number of risk factors at approximately 48.8 risk factors, while companies in the manufacturing industry average the lowest total number of risk factors at approximately 42.6 risk factors, or 13% fewer risk factors than companies in the technology industry. Companies in the life sciences and trade and services industries fall between the technology and the manufacturing industries, averaging approximately 44.3 and 46.5 risk factors, respectively.



# USE AND NUMBER OF RISK FACTOR HEADINGS



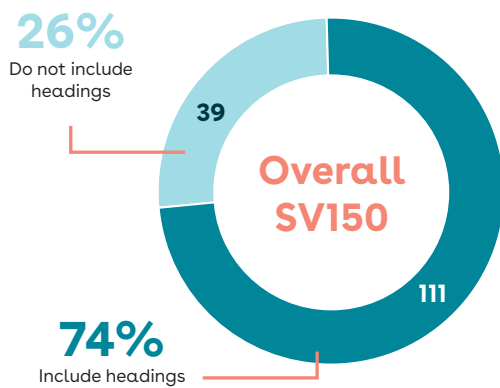
As previously noted, the SEC has proposed to require that risk factors be grouped under relevant headings, such as “Risks Relating to the Business” or “Intellectual Property Risks,” with generic risk factors disclosed at the end of the risk factor section under the heading “General Risk Factors.”<sup>7</sup> Of note, the SEC has not suggested that there would be a minimum or maximum number of headings to meet the requirements of its proposed rule.



# SV150

111 of the SV150 companies, or 74%, include at least one heading in their risk factors. Many of these companies include a heading for risks relating to the business and a heading for risks relating to stock ownership or an investment in company stock. While a substantial majority of the SV150 companies include headings in their risk factors, most include three or fewer such headings. Specifically, 81 of these 111 companies include only one to three headings in their risk factors. The total number of headings across all SV150 companies ranges from 0 to 12 headings.

## Use of Headings



Of the SV150 companies:



95 (63%) include a heading for risks relating to the business

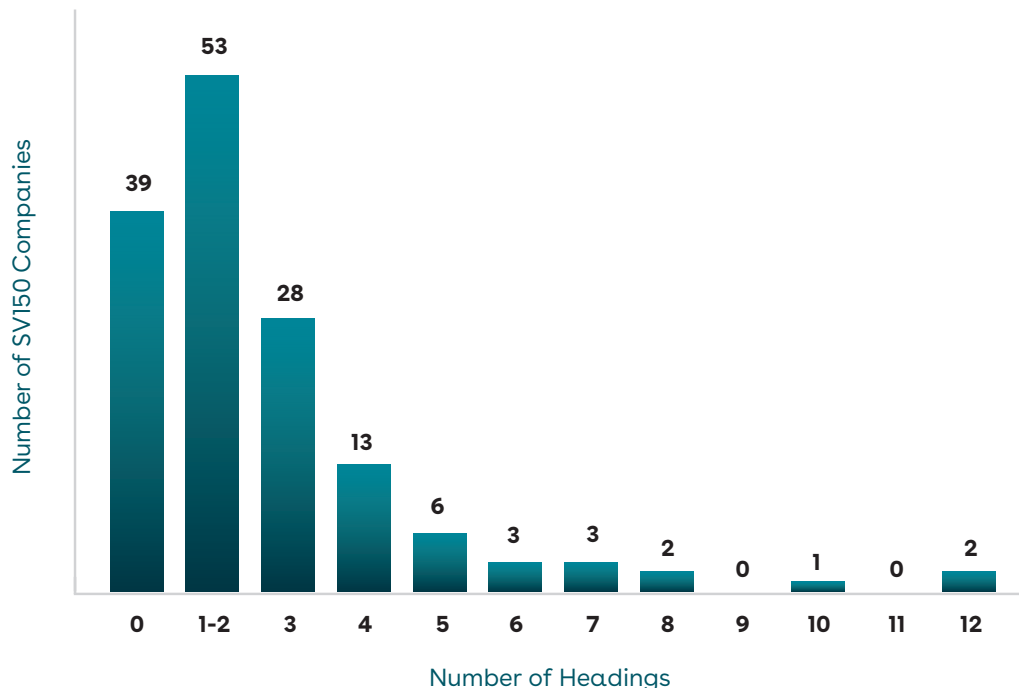


92 (61%) include a heading for risks relating to stock ownership or an investment in company stock



85 (57%) include both of the above headings

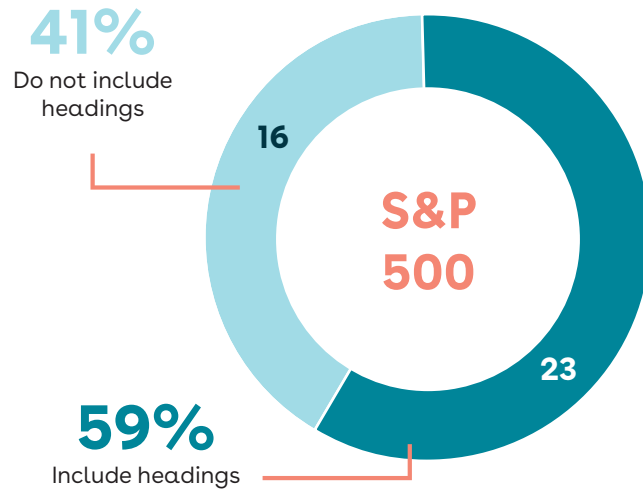
## Number of Headings



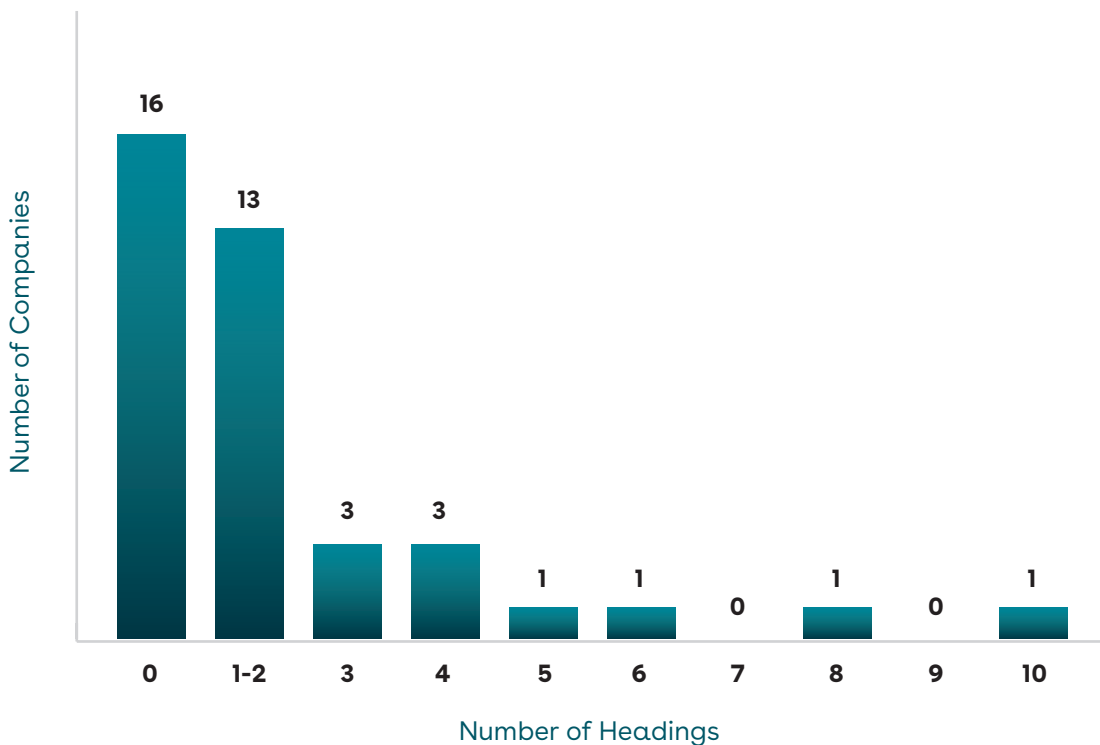
## S&P 500

23 of the 39 S&P 500 companies represented in the SV150, or 59%, include at least one heading in their risk factors. Of these 23 companies, 16 companies, or 70%, include one to three headings in their risk factors. The total number of headings ranges from 0 to 10 headings.

### Use of Headings



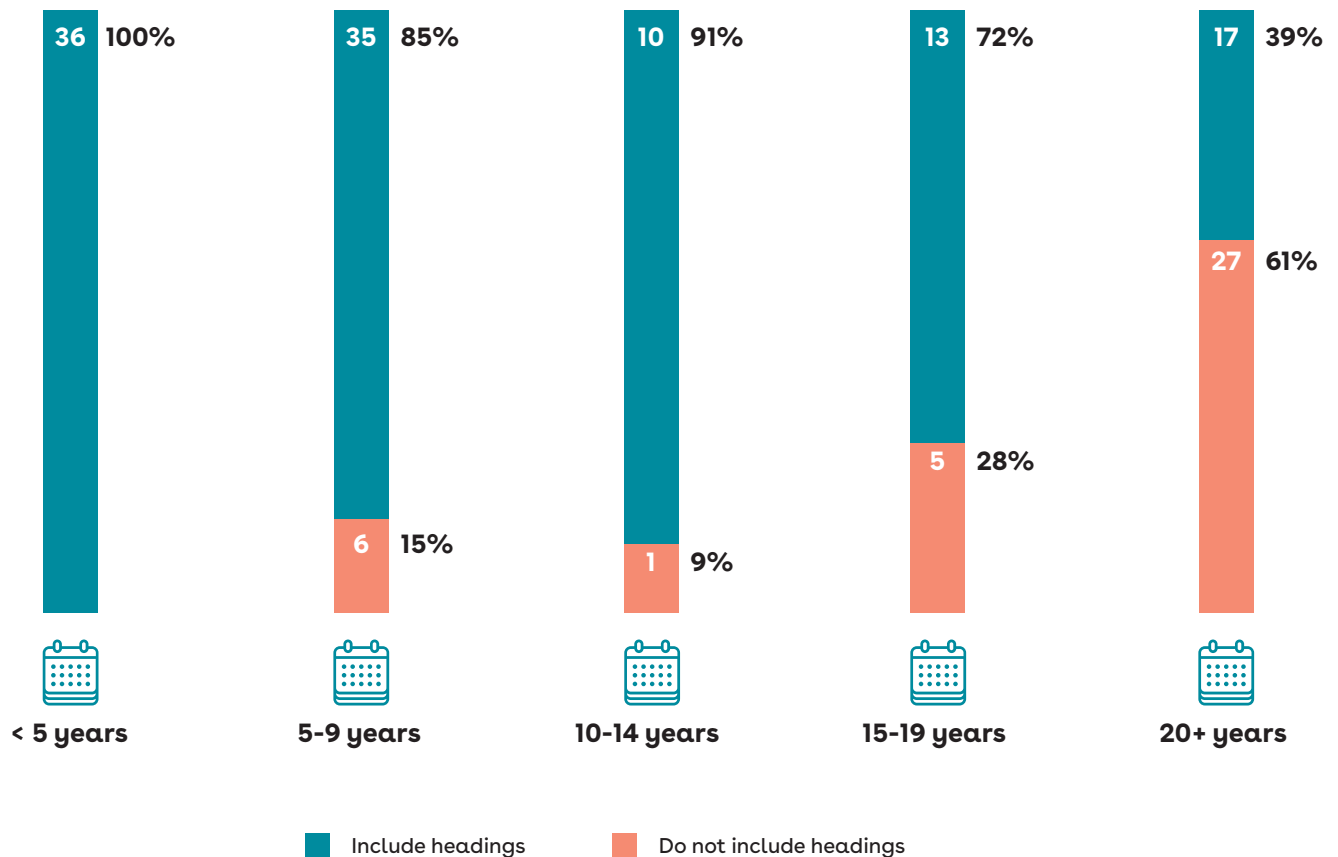
### Number of Headings



## Years Since IPO

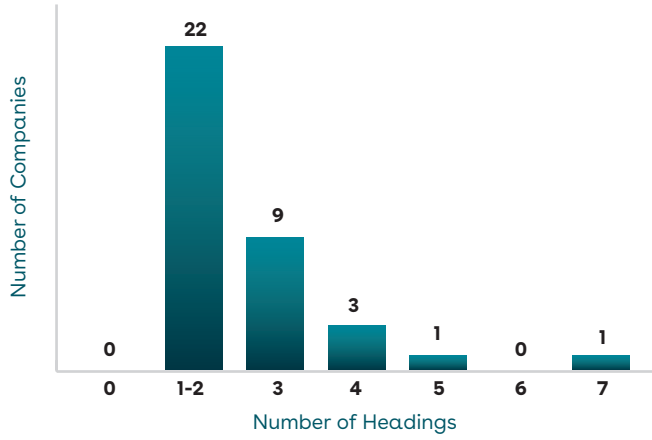
Generally, the use of headings in risk factors is substantially less common for those companies that have been public for at least 20 years than for those companies that went public within the last five years. All 36 of the companies that went public within the last five years include at least one heading in their risk factors, while only 17 of the 44 companies that went public at least 20 years ago, or 39%, include at least one heading in their risk factors. Notwithstanding the frequency of heading use by newer public companies, only 5 of the 36 companies that went public within the last five years, or 14%, include more than three headings in their risk factors.

### Use of Headings

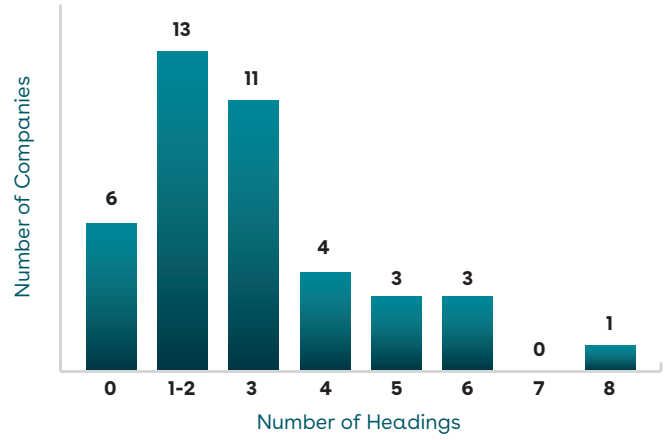


## Number of Headings

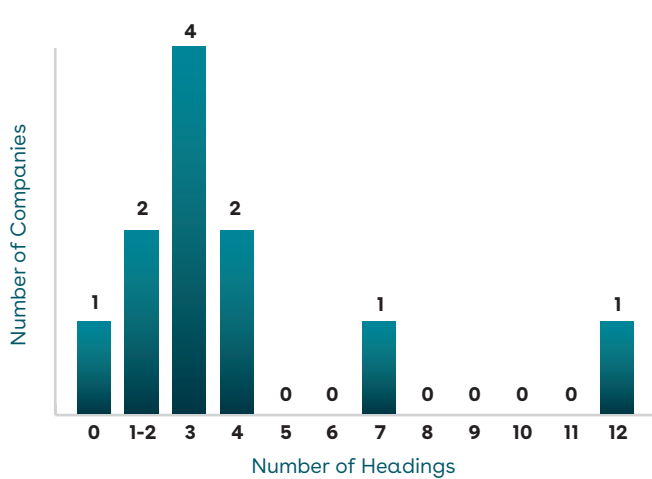
### Less than 5 Years



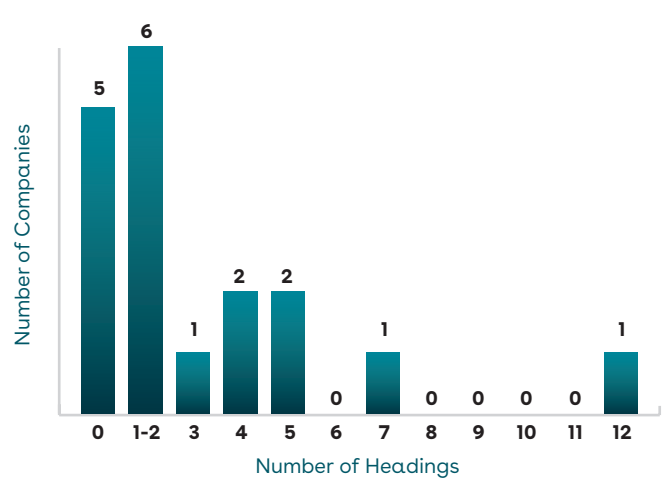
### 5 to 9 Years



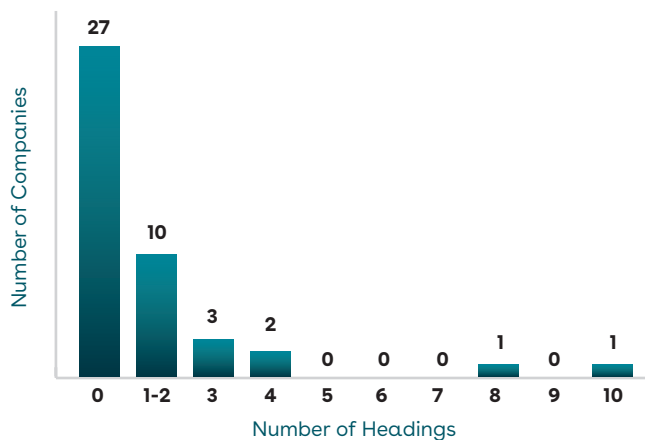
### 10 to 14 Years



### 15 to 19 Years



### 20 or More Years

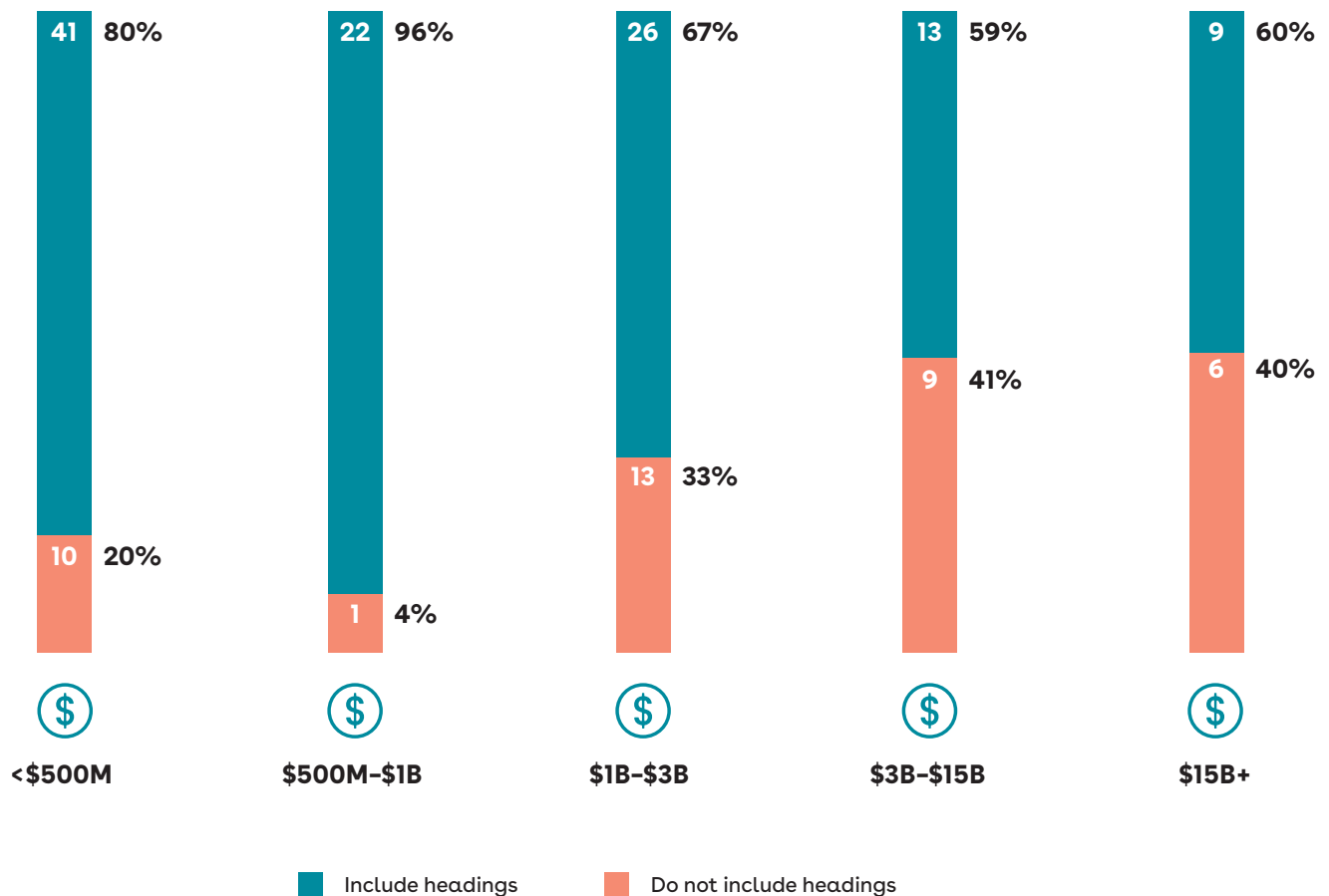




# Annual Sales

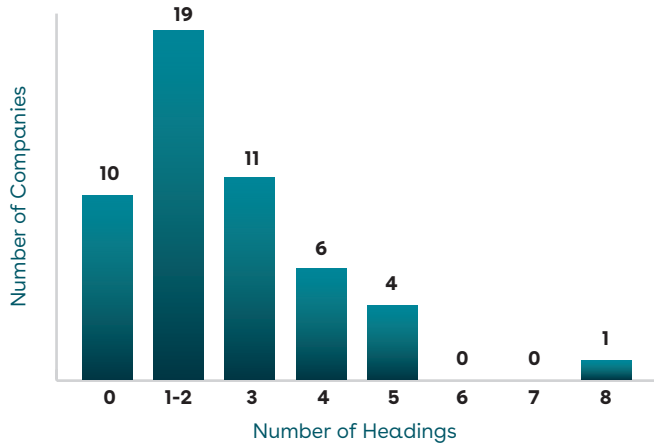
Generally, the use of headings is more prevalent in the risk factor disclosures of companies with lower annual sales. Specifically, 63 of the 74 companies with annual sales of less than \$1 billion, or 85%, include at least one heading in their risk factors, while 22 of the 37 companies with annual sales of \$3 billion or more, or 59%, include at least one heading in their risk factors. In addition, the number of headings is generally higher in the risk factor disclosures of companies with lower annual sales. Of the 63 companies with annual sales of less than \$1 billion that include at least one heading in their risk factors, 18 companies, or 29%, include more than three headings in their risk factors. Of the 22 companies with annual sales of \$3 billion or more that include at least one heading in their risk factors, only four companies, or 18%, include more than three headings in their risk factors.

## Use of Headings

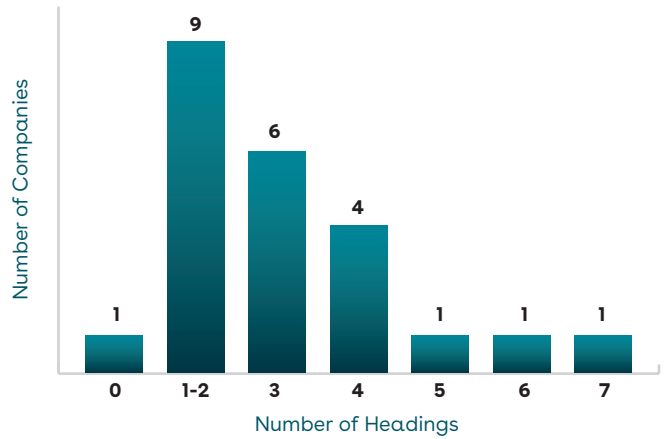


## Number of Headings

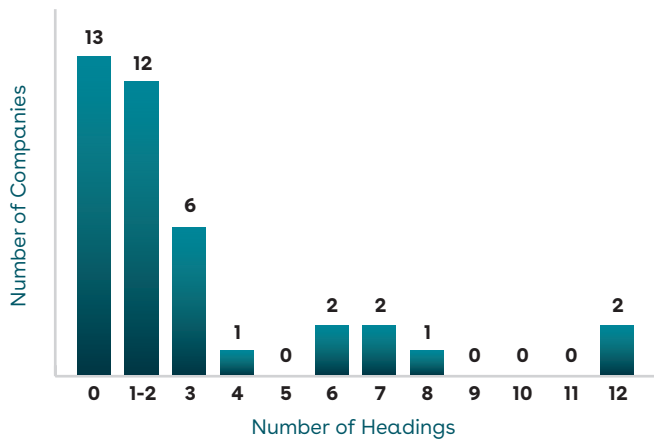
### Less than \$500 Million



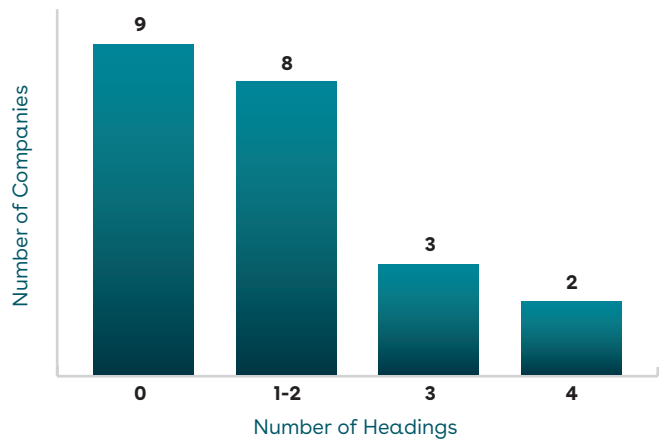
### \$500 Million to Less than \$1 Billion



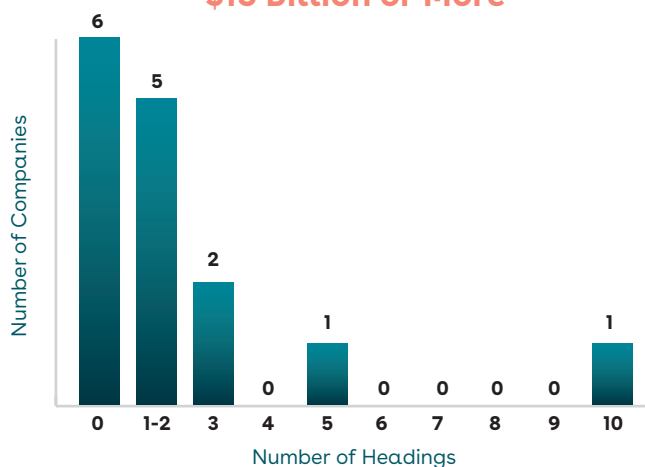
### \$1 Billion to Less than \$3 Billion



### \$3 Billion to Less than \$15 Billion



### \$15 Billion or More

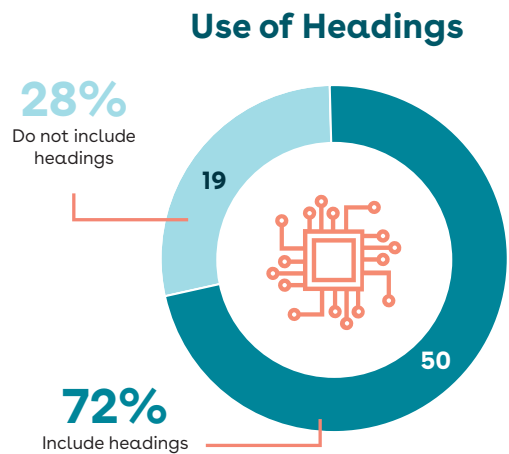


# Industry

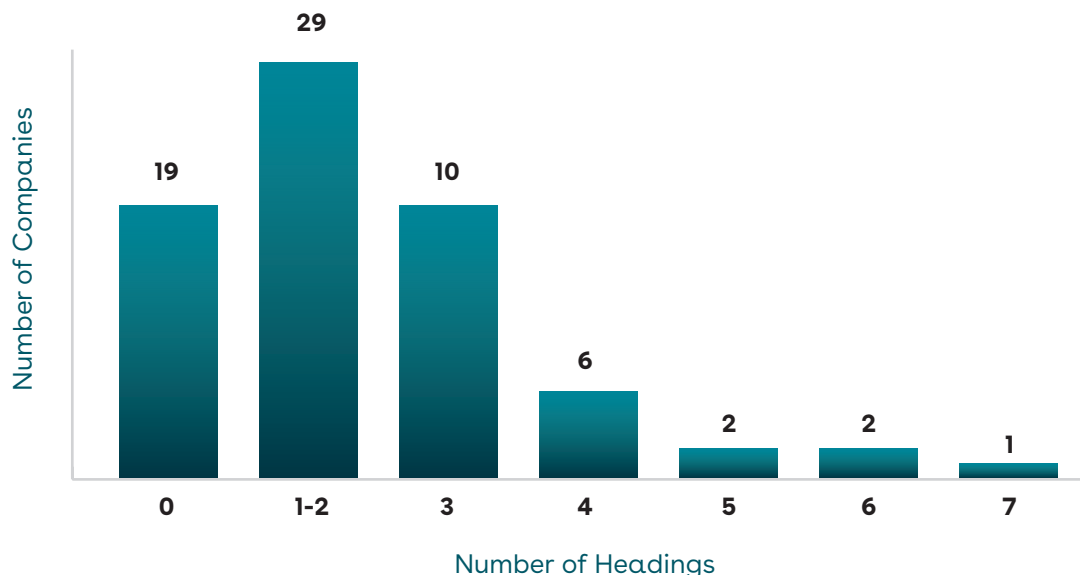
While a majority of companies in each industry include headings in their risk factor disclosure, companies in the life sciences industry tend to include more headings on a proportional basis. Specifically, of the companies in each industry that include headings, more than half of the companies in the life sciences industry include more than three headings in their risk factor disclosure, while less than a quarter of the companies in each of the technology, manufacturing, and trade and services industries include more than three headings in their risk factor disclosure.

## Technology

50 of the 69 technology companies, or 72%, include at least one heading in their risk factors. However, of those 50 companies, 39 companies, or 78%, include only one to three headings in their risk factors. In addition, of those 50 companies, 26 companies, or 52%, include only one or both of the following headings—risks relating to the business and risks relating to stock ownership or an investment in company stock. Headings for the remaining 24 companies include, among others: convertible note risks; intellectual property risks; industry risks; financial performance and condition risks; legal and regulatory risks; and operational risks.



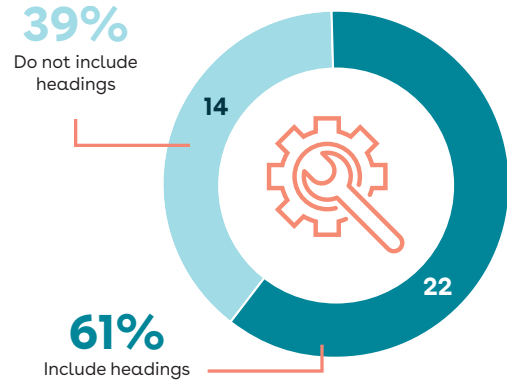
### Number of Headings



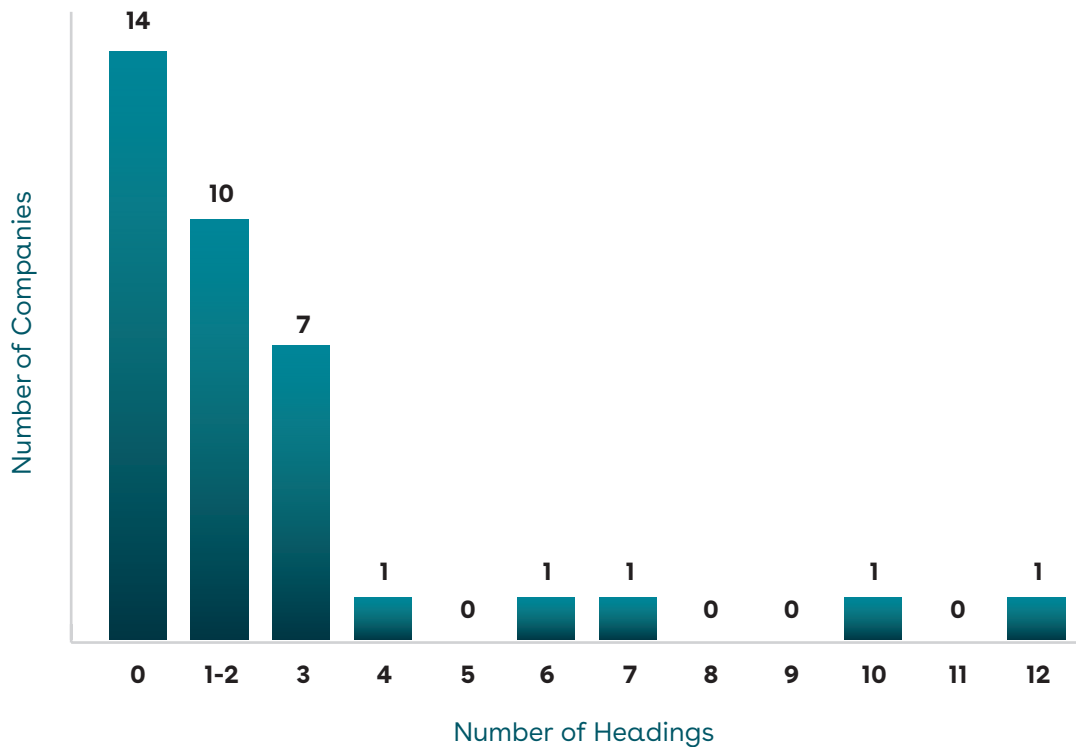
## Manufacturing

22 of the 36 manufacturing companies, or 61%, include at least one heading in their risk factors. Of those 22 companies, 17 companies, or 77%, include only one to three headings in their risk factors. In addition, of those 22 companies, 7 companies, or 32%, include only one or both of the following headings—risks relating to the business and risks relating to stock ownership or an investment in company stock. Headings for the remaining 15 companies include, among others: international operations risks; intellectual property risks; industry risks; management retention risks; and strategic transaction risks.

### Use of Headings

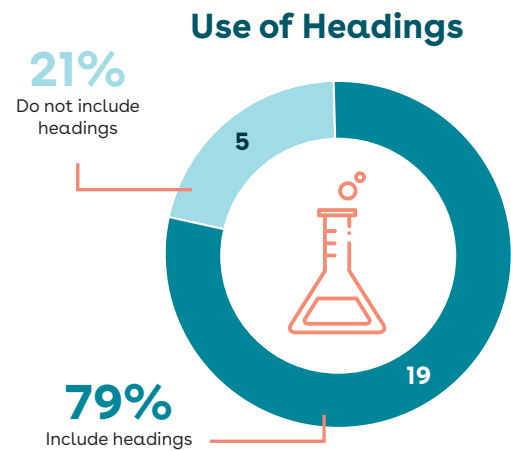


### Number of Headings

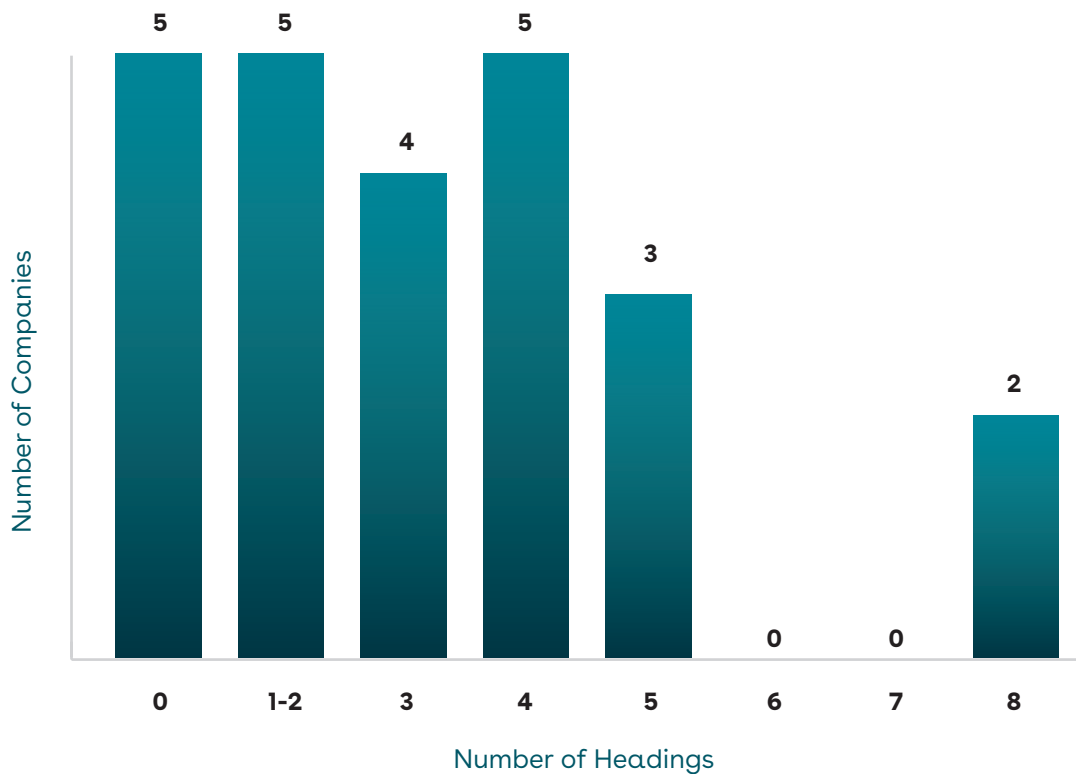


## Life Sciences

19 of the 24 life sciences companies, or 79%, include at least one heading in their risk factors. However, unlike technology and manufacturing companies, which in most cases include only one to three headings in their risk factors, 14 of these 19 life sciences companies, or 74%, include three or more headings in their risk factors. In addition to risks relating to the business, risks relating to stock ownership or an investment in company stock, and risks relating to previously issued convertible notes, headings included, among others: regulatory risks; intellectual property risks; financial position and capital requirements needs risks; and commercialization risks.

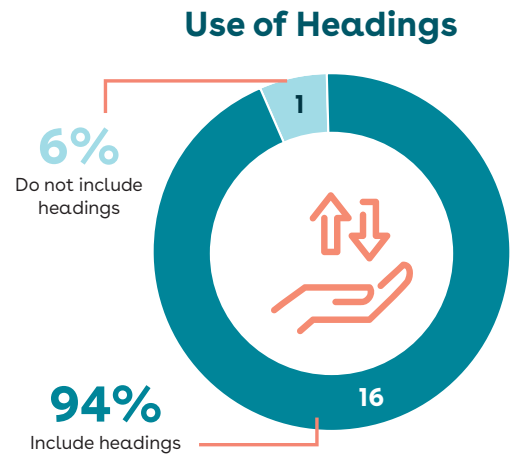


### Number of Headings

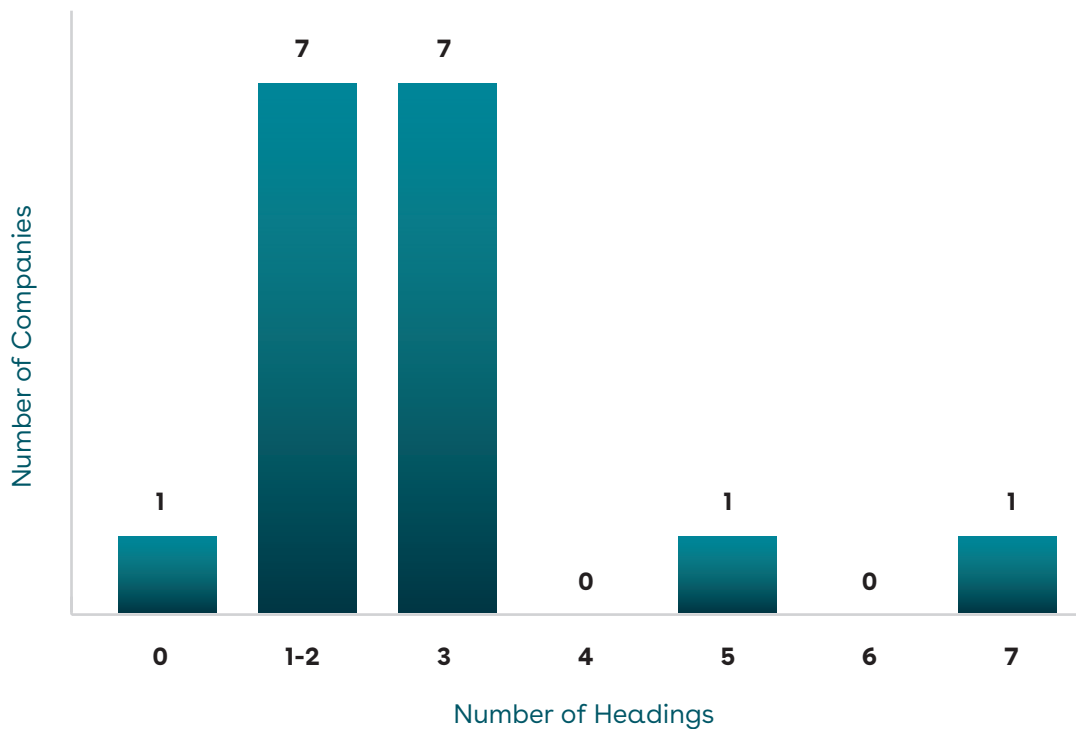


## Trade and Services


16 of the 17 trade and services companies, or 94%, include at least one heading in their risk factors. Of those 16 companies, 14 companies, or 88%, include only one to three headings in their risk factors. In addition, of those 16 companies, 6 companies, or 38%, include only one or both of the following headings—risks relating to the business and risks relating to stock ownership or an investment in company stock. There was minimal duplication of headings across the remaining 10 companies.



## Number of Headings




# SUMMARY RISK FACTOR DISCLOSURE



As previously noted, the SEC has proposed requiring a summary risk factor disclosure for those companies with more than 15 pages of risk factor disclosure.<sup>8</sup> Overall in the SV150, 109 companies, or 73%, have more than 15 total pages of risk factors.

We reviewed each of the Form 10-K filings to identify whether any of the SV150 companies currently include a risk factor summary disclosure. Some of the companies in the SV150 include a nonexhaustive list of the risks and uncertainties that could impact their future results in their forward-looking statement disclosure. While this list may be a starting point for a separately titled risk factor summary for those companies with more than 15 pages of risk factor disclosure (if the SEC adopts this requirement), none of the companies in the SV150 include an explicit summary risk factor disclosure in their Form 10-K filings. While rare in our experience, a notable example of including a separately titled summary risk factor disclosure can be found on page 5 of the Annual Report on Form 10-K filed by Walmart, Inc. on March 20, 2020.

If the SEC's proposal is adopted in its current form, a substantial majority of the SV150 would need to consider whether to reduce the total number of risk factors or the amount of risk factor disclosure, or to include a summary risk factor disclosure. If summary risk factor disclosure is included, then careful analysis may be needed to determine which risks to identify and summarize in this disclosure, keeping in mind that the proposal requires a summary of the *principal* factors that make an investment in the company or offering speculative or risky.



If the SEC's 15+ page proposal is adopted, a large majority of SV150 companies would need to consider: reduce the total # of risk factors or amount of risk factor disclosure, or include a summary risk factor disclosure.

# FORM 10-Q RISK FACTOR DISCLOSURE PRACTICES



In Item 1A of Form 10-Q,<sup>9</sup> companies are required to disclose any material changes from the risk factors previously disclosed in their Form 10-K. Risk factor disclosure practices in Forms 10-Q vary widely—some companies only provide updates (if any) from the risk factors disclosed in their previously filed Form 10-K, some companies provide the full set of risk factors from their previously filed Form 10-K and highlight (whether by asterisk or otherwise) any updates from their previously filed Form 10-K, and some companies provide the full set of risk factors from their previously filed Form 10-K without highlighting whether any updates were made.

While a discussion of the pros and cons of these practices is beyond the scope of this report, there are a variety of reasons why companies may decide to favor one approach over another. For example, companies that include a full set of risk factors in their Form 10-Q, without highlighting any updates, may make frequent updates to their risk factors and do not want to risk implying that every edit or update is material, or companies may prefer to include a full set of risk factors in each filing to make it easier for investors to find the most up-to-date and complete set of risk factors rather than require investors to review the Form 10-K and the most recent Form 10-Q filing. Companies that only include updates may prefer to reduce the length of their Form 10-Q filings or decrease repetition from their Form 10-K filings, or they may believe that this practice more closely aligns with the requirements in Form 10-Q or prior statements made by the SEC.<sup>10</sup>

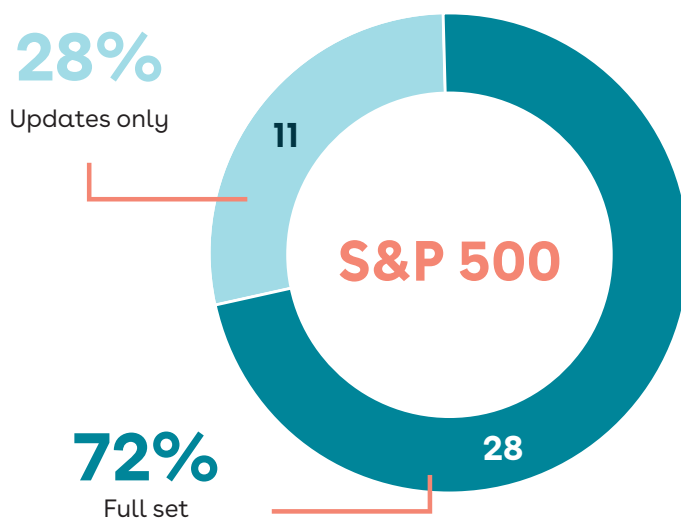
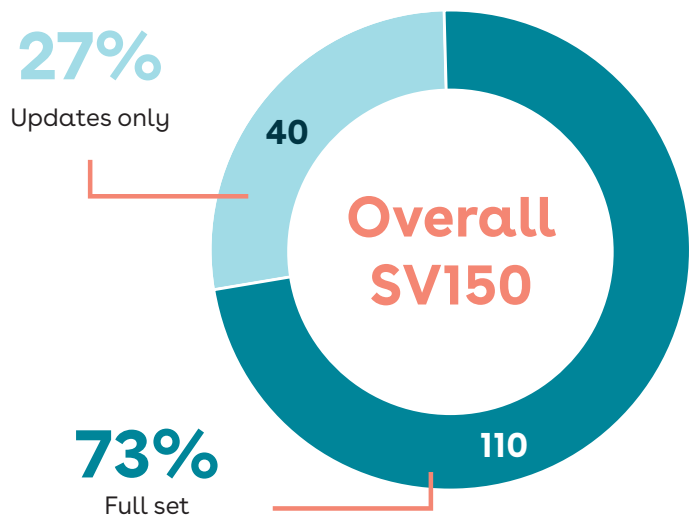
We reviewed the Form 10-Q filing that immediately preceded the Form 10-K filing in order to determine whether a company included a full set of risk factors or only included updates (if any) in their Form 10-Q. Key highlights are included on the following pages.





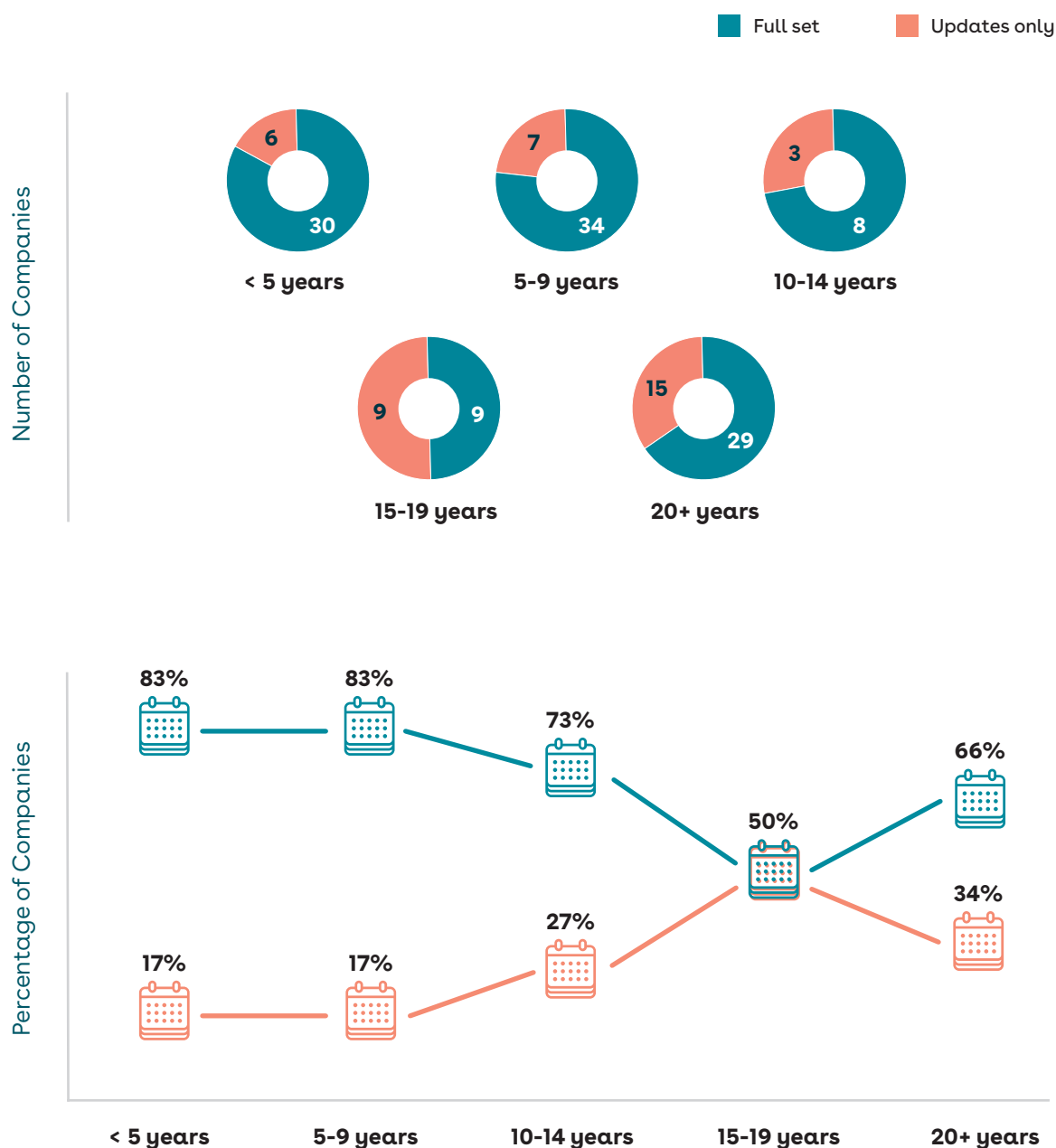
## SV150 and S&P 500

Overall in the SV150, 110 companies, or 73%, disclose a full set of risk factors in their Form 10-Q filings. Similar to the SV150 generally, 28 of the 39 S&P 500 companies represented in the SV150, or 72%, include a full set of risk factors in their Form 10-Q filings.



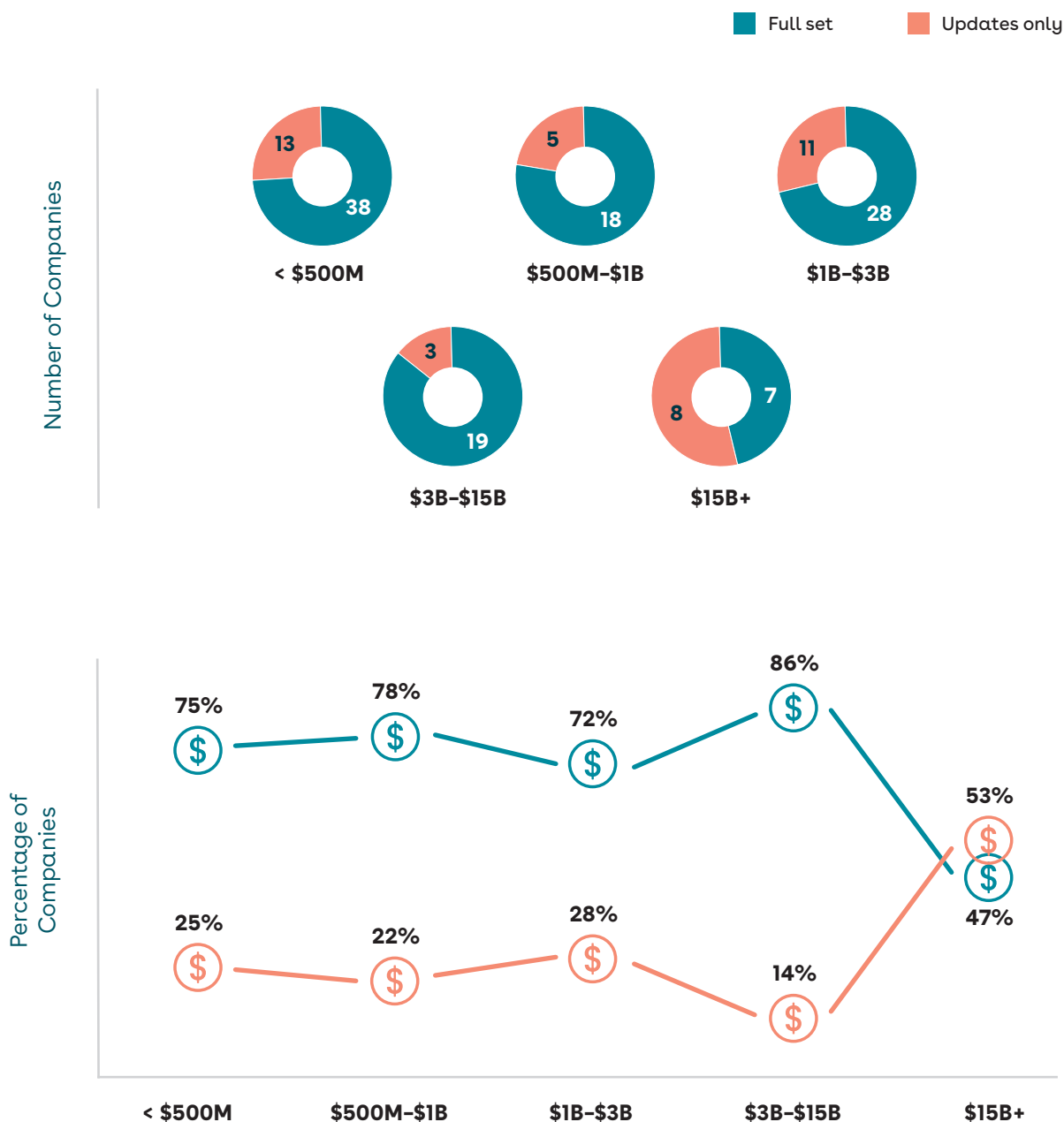
## Years Since IPO

A substantial majority of companies that went public within the past 15 years include a full set of risk factors in their Form 10-Q filings. Specifically, 72 of 88 companies that went public within the past 15 years, or 82%, include a full set of risk factors in their Form 10-Q filings. While companies that went public 15 to 19 years ago are split evenly in their use of a full set of risk factors versus their use of updates to risk factors only, this appears to be somewhat of an anomaly because nearly two-thirds of the companies that went public at least 20 years ago include a full set of risk factors.



## Annual Sales

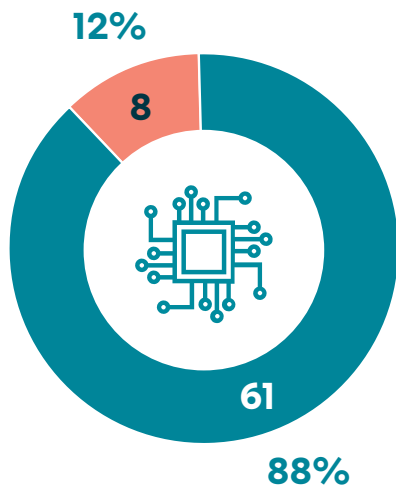
A significant majority of companies with less than \$500 million in annual sales (75%), with \$500 million to less than \$1 billion in annual sales (78%), and with \$1 billion to less than \$3 billion in annual sales (72%), include a full set of risk factors in their Form 10-Q filings. This percentage increases to 86% for companies with \$3 billion to less than \$15 billion in annual sales. Notably, however, this trend reverses course for companies with \$15 billion or more in annual sales, the only subset of companies analyzed for this report that had more companies including updates to risk factors only versus a full set of risk factors in their Form 10-Q filings.



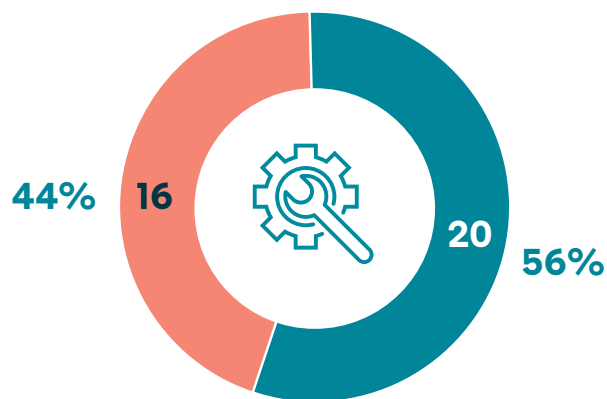
## Industry

Number and Percentage of Companies

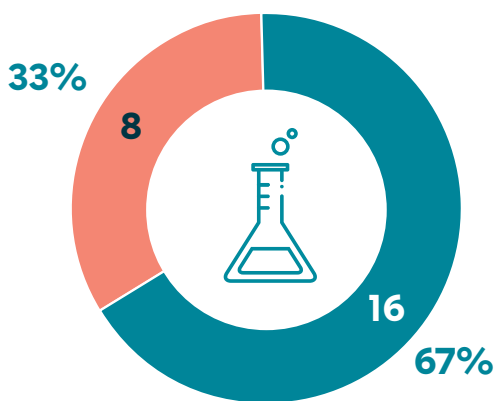
■ Full set ■ Updates only



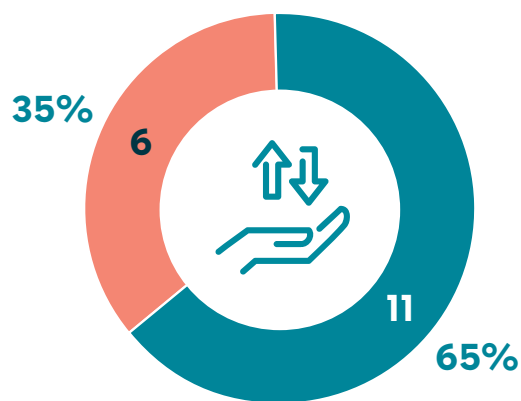
Technology



Manufacturing



Life Sciences



Trade and Services

# CONCLUSIONS

Risk factor practices vary widely. We hope, however, that this glimpse by the numbers into the risk practices of the SV150 is useful as companies benchmark their own practices with those of the most prominent technology, biotech, and pharmaceutical companies in the world.

While many of the key findings are already summarized above, we wanted to highlight a few concluding trends from these findings:

## Pages and Number of Risk Factors

- As more time elapses following an IPO, the length of risk factor disclosures, including both the total number of pages of risk factors and the total number of risk factors, generally decreases.
- Companies with higher annual sales, particularly those companies with at least \$3 billion in annual sales, tend to have fewer total pages of risk factors and fewer total risk factors.
- Companies in the technology industry generally have more total pages of risk factors and more total risk factors than companies in other industries, followed by life sciences and trade and services companies, and manufacturing companies, which generally have the fewest total pages of risk factors and total risk factors.

## Risk Factor Headings

- A significant majority of companies in the SV150 include at least one heading in their risk factors. Notwithstanding the broad use of headings, many of these companies only include one to three headings in their risk factors, oftentimes risks relating to the business and risks relating to stock ownership or an investment in the company's stock.

# CONCLUSIONS



- Companies that have been public longer tend to be less likely to use headings in their risk factors and, if used, tend to include fewer headings than newer public companies. Similarly, companies with higher annual sales tend to be less likely to use headings in their risk factors and, if used, tend to include fewer headings than companies with substantially lower annual sales.
- While the use of headings is widespread by technology companies, a majority of those companies only include headings for either or both of risks relating to the business and risks relating to stock ownership or an investment in company stock. The use of headings is least widespread, although still a majority, in the manufacturing industry.

## Form 10-Q Risk Factor Disclosures

- A significant majority of the SV150 disclose a full set of risk factors in their Form 10-Q filing in lieu of updates only.
- Disclosure of a full set of risk factors in Form 10-Q filings is particularly prevalent for companies that have been public for less than 15 years and for companies in the technology industry, and is notably less prevalent for companies in the manufacturing industry.
- The only subset of companies reviewed for this report for which disclosure of a full set of risk factors is not the majority practice is for those companies with very high annual sales, that is, \$15 billion or more. While that subset only encompasses 15 companies, fewer than half (seven companies) include a full set of risk factors in their Form 10-Q filings.



## About Wilson Sonsini

Wilson Sonsini represents clients in a broad range of legal disciplines that address the principal challenges faced by the management and boards of directors of business enterprises. Known worldwide for its representation of technology and life sciences clients, Wilson Sonsini is a leading corporate law firm, representing clients in capital markets, M&A, private equity, venture finance, and technology transactions. The firm's recognized litigation and trial practice represents clients in antitrust, class action, commercial, governance, IP, privacy, securities, and other types of contested matters. Wilson Sonsini also has a substantial and growing regulatory and compliance practice, advising clients as to antitrust, consumer products, CFIUS and FCPA, FDA, international trade, privacy, and other matters. With deep roots in Silicon Valley, Wilson Sonsini has offices in Austin; Beijing; Boston; Brussels; Hong Kong; London; Los Angeles; New York; Palo Alto; San Diego; San Francisco; Seattle; Shanghai; Washington, D.C.; and Wilmington, DE. For more information, please visit [www.wsgr.com](http://www.wsgr.com).

## For More Information

For more on the preceding information or any related matters, please contact your regular Wilson Sonsini attorney, or any member of the firm's [public company representation practice](#) or [corporate governance practice](#). Visit the firm's website at [www.wsgr.com](http://www.wsgr.com) for more information.

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- <sup>1</sup> There are eight companies in the SV150 that were acquired in 2019 and that did not file annual reports on Form 10-K for fiscal years that ended from March 29, 2019, through February 2, 2020. Notwithstanding the foregoing, and for purposes of the data in this report, we reviewed the prior year annual report on Form 10-K and quarterly report on Form 10-Q filings for these eight companies and have included this data in this report. References to annual report on Form 10-K have been shortened for the remainder of this report to Form 10-K.
- <sup>2</sup> See Modernization of Regulation S-K Items 101, 103, and 105, 84 Fed. Reg. 44358 (Aug. 23, 2019). Existing Item 105 of Regulation S-K requires a concise and logically organized discussion of the most significant factors that make an investment in the company or offering speculative or risky. Companies are required to explain how the risk affects the company or securities being offered, and should not present generic risks that could apply to any company or offering.
- <sup>3</sup> All percentages have been rounded to the nearest whole percentage, where applicable. For ease of readability, this report does not include “approximately” or words of similar import when referencing these percentages.
- <sup>4</sup> There are three companies in the real estate and construction industry and one company in the finance industry. Given these small sample sizes, this report does not include real estate and construction or finance in the industry-related data that follows. However, the companies in these two industries are included within all other data, where applicable.
- <sup>5</sup> See Modernization of Regulation S-K Items 101, 103, and 105, 84 Fed. Reg. 44375 (Aug. 23, 2019).
- <sup>6</sup> For purposes of counting the total number of pages of risk factors in each Form 10-K filing, if no actual text of a risk factor appeared on a page, then that page did not count toward the total number of pages of risk factors. For example, if just the risk factor section heading and introductory sentence(s) were included on a page, then that page did not count toward the total number of pages of risk factors because no actual text of a risk factor appeared on that page.
- <sup>7</sup> See Modernization of Regulation S-K Items 101, 103, and 105, 84 Fed. Reg. 44376 (Aug. 23, 2019).
- <sup>8</sup> *Id.*
- <sup>9</sup> References to quarterly reports on Form 10-Q have been shortened to Form 10-Q for the remainder of this report.
- <sup>10</sup> In Item 1A of Form 10-Q, companies are required to disclose “material changes” to the risk factors previously disclosed in their Form 10-K filing. In addition, in the adopting release for the 2005 Securities Offering Reform, the SEC states that it discourages “unnecessary restatement or repetition of risk factors in quarterly reports.” Securities Offering Reform, 70 Fed. Reg. 44786 (Aug. 3, 2005).



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