

New Expectations for Corporations, the Greater Focus on ESG and the Opportunity for HR

CHRO Academy XVI

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Today's Agenda

- Setting the Framework – a World in Transition
- Why the General Public Expects More of Corporations
- Expectations of Corporate Leadership on Social Issues
- Investors' Focus on Environmental, Social and Governance Issues
 - Sustainability
 - Human Capital Metrics
 - Gender Equity
- HR Public Policy Issues
- The Role and Opportunity for Human Resources

A World in Perpetual Transition

The world is in transition...



Technology-led shifts
are driving this
tectonic change



Changing
demographics
changes needs &
behavior



Rapid urbanization
makes this change
profoundly visible

The world is in transition...



DATA



CODE



API ECONOMY



COGNATIVE



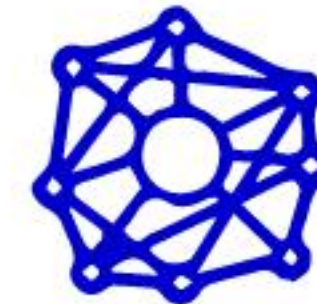
AUTOMATION



AR/VR



3D/4D PRINTING



BLOKCHAIN



AUTONOMOUS



RPV/ROBOTS



SHARING ECONOMY



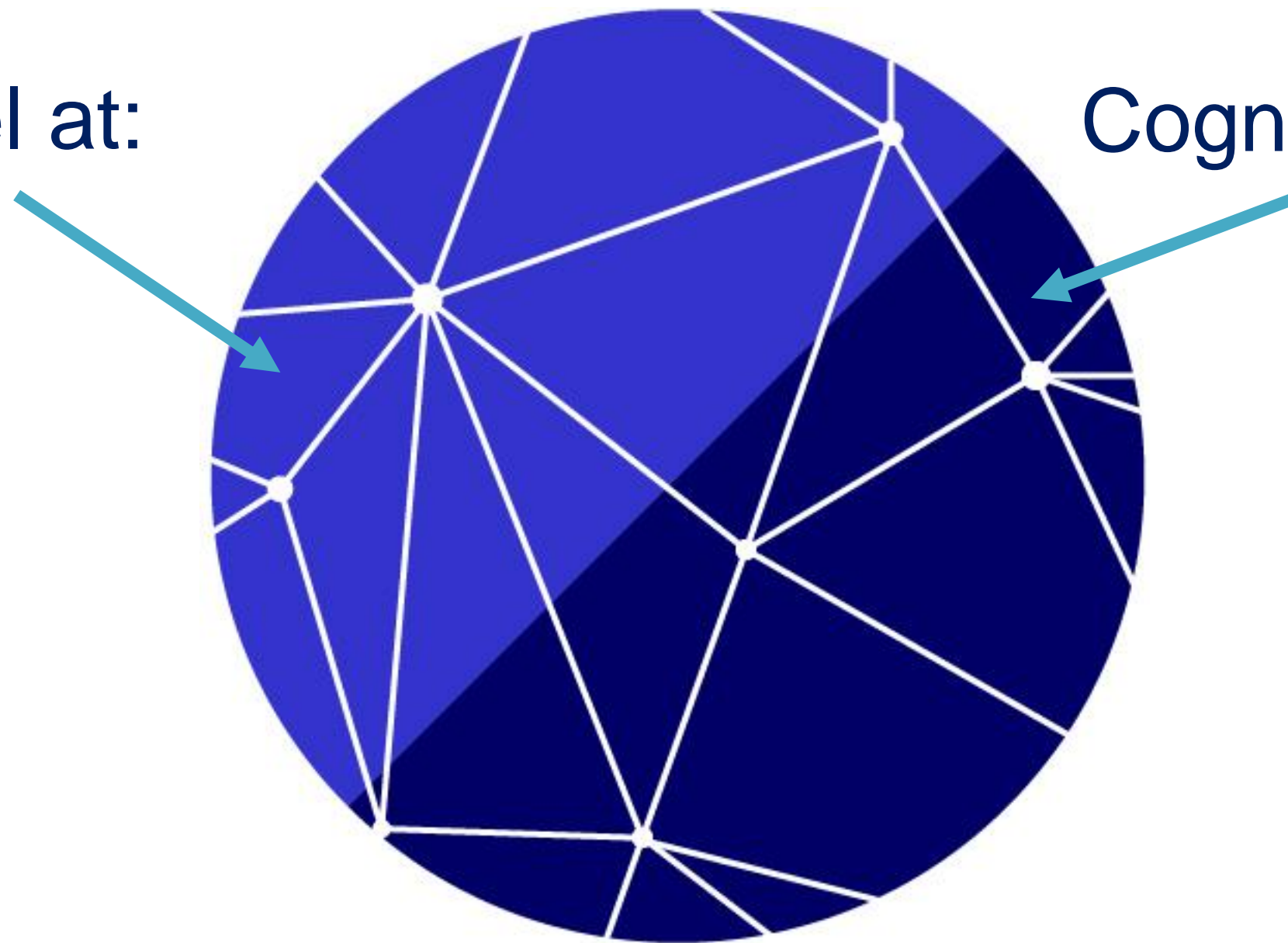
NEXT GEN COMMS

...twelve of the key innovations driving this shift

Cognitive systems forge a new partnership between man and machine.

Humans excel at:

Common Sense
Morals
Imagination
Abstraction
Dilemmas
Dreaming
Generalization



Cognitive Systems excel at:

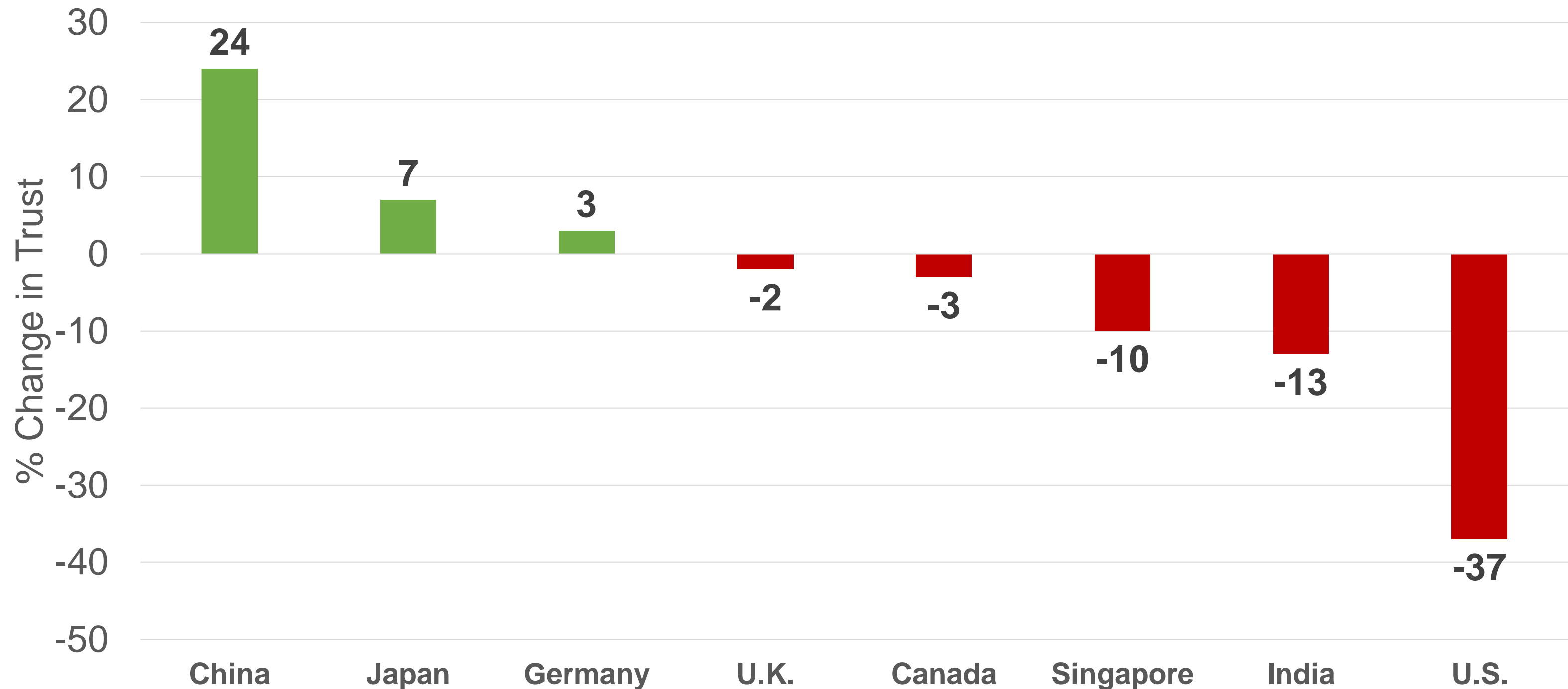
Locating Knowledge
Pattern Identification
Natural Language
Machine Learning
Eliminate Bias
Endless Capacity

Why the General Public Expects More of Corporations

What Is “ESG”?

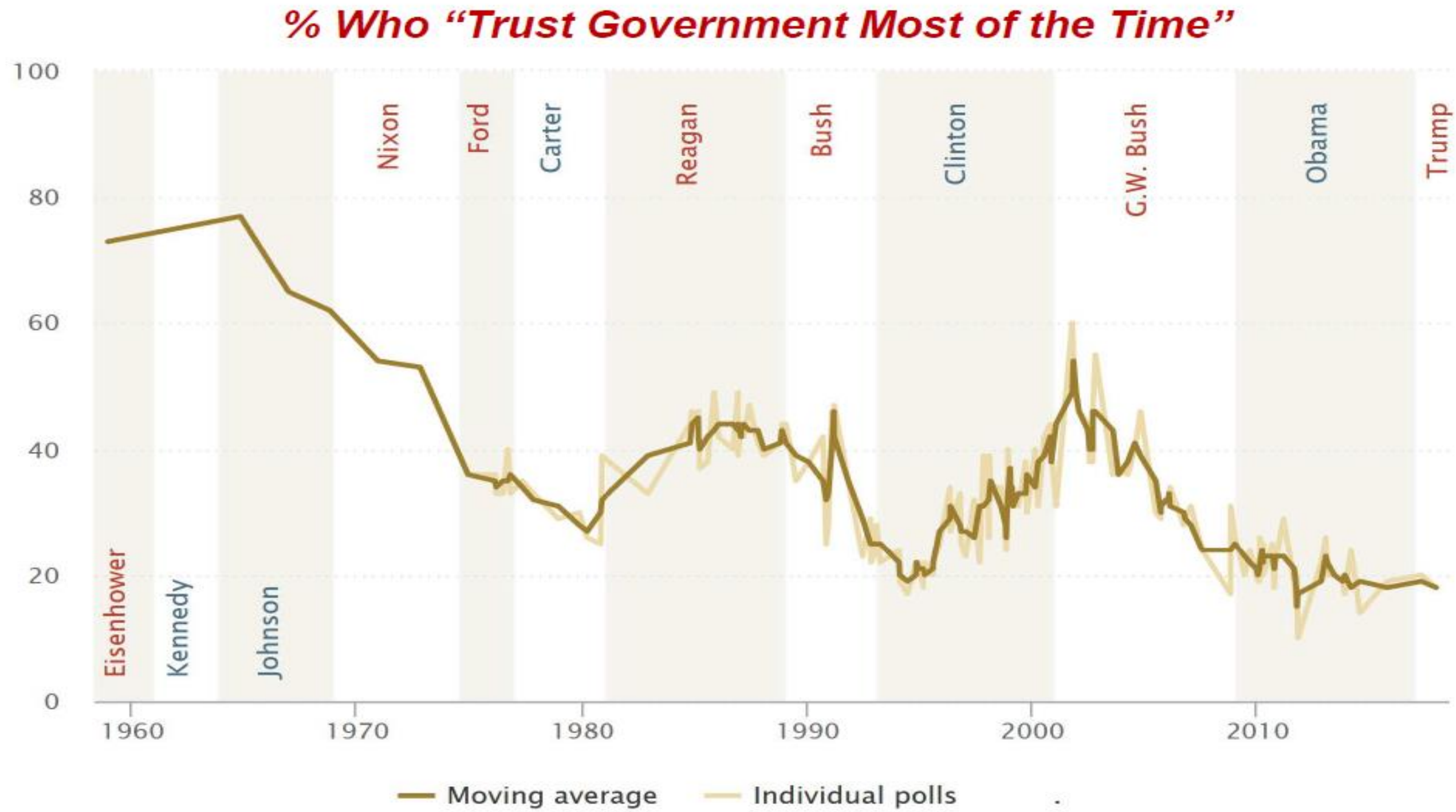
- Environmental – Risks relating to environmental issues: energy use, waste, pollution, natural resource conservation and animal treatment
- Social – Factors influencing internal and external business relationships: Suppliers and their values, societal involvement, HR practices, stakeholder engagement
- Governance – Board composition and independence, accounting accuracy and transparency, business conduct

Change in Trust in Government, Business, Media and NGOs from 2017 to 2018



Motivation:

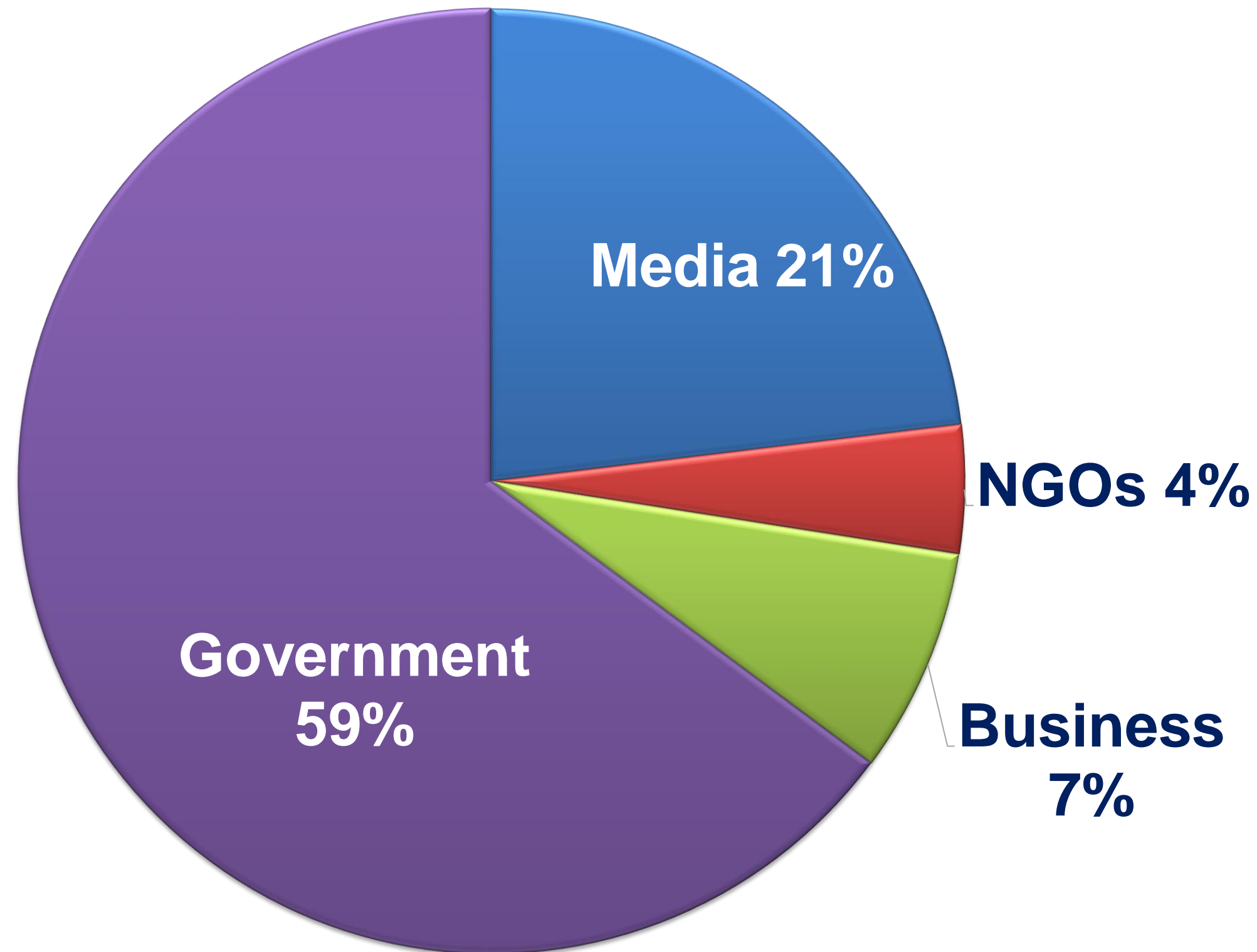
WE DON'T TRUST OUR GOVERNMENT



MEHLMAN CASTAGNETTI
ROSEN & THOMAS

Source: Pew (2017)

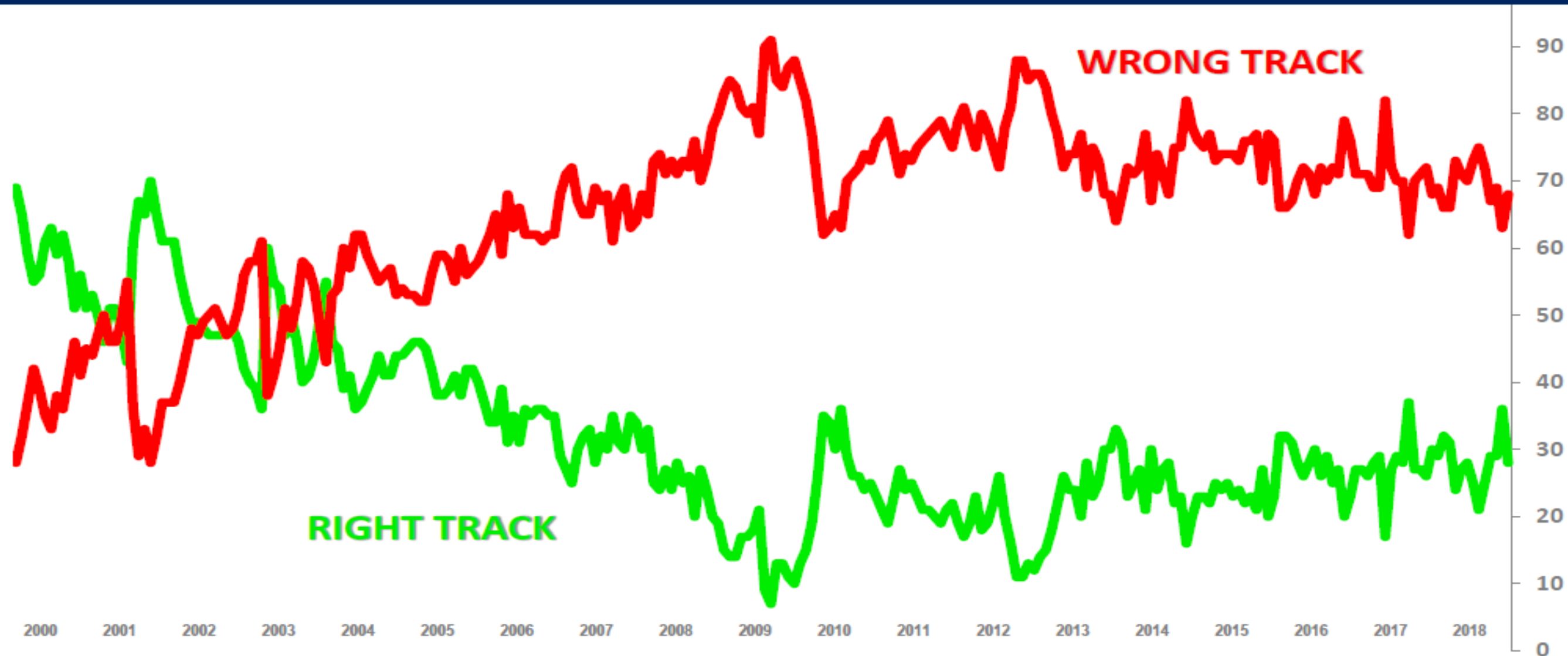
Which Institution Is the Most Broken in the U.S.?



Source: 2018 Edelman Trust Barometer Global Report

Motivation:

WE BELIEVE WE'RE ON THE WRONG TRACK



...And Keep Voting for Change (5 of the last 6 elections)



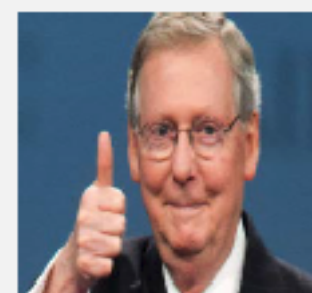
2006



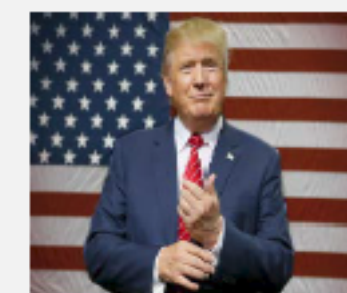
2008



2010



2014



2016

MEHLMAN CASTAGNETTI
ROSEN & THOMAS

Major Legislative Enactments

- 1992 – 2000
 - Family & Medical Leave Act (1993)

Regulations

- 1992 – 2000
 - Striker Replacement Executive Order (1995)
 - Federal Contractor Debarment (2000)
 - Ergonomics Regulations (2000)
 - UI for FMLA Leave (2000)

Major Legislative Enactments

- 2001 – 2016
 - Genetic Information Nondiscrimination Act (2008)
 - Americans with Disabilities Act Amendments (2008)

Regulations

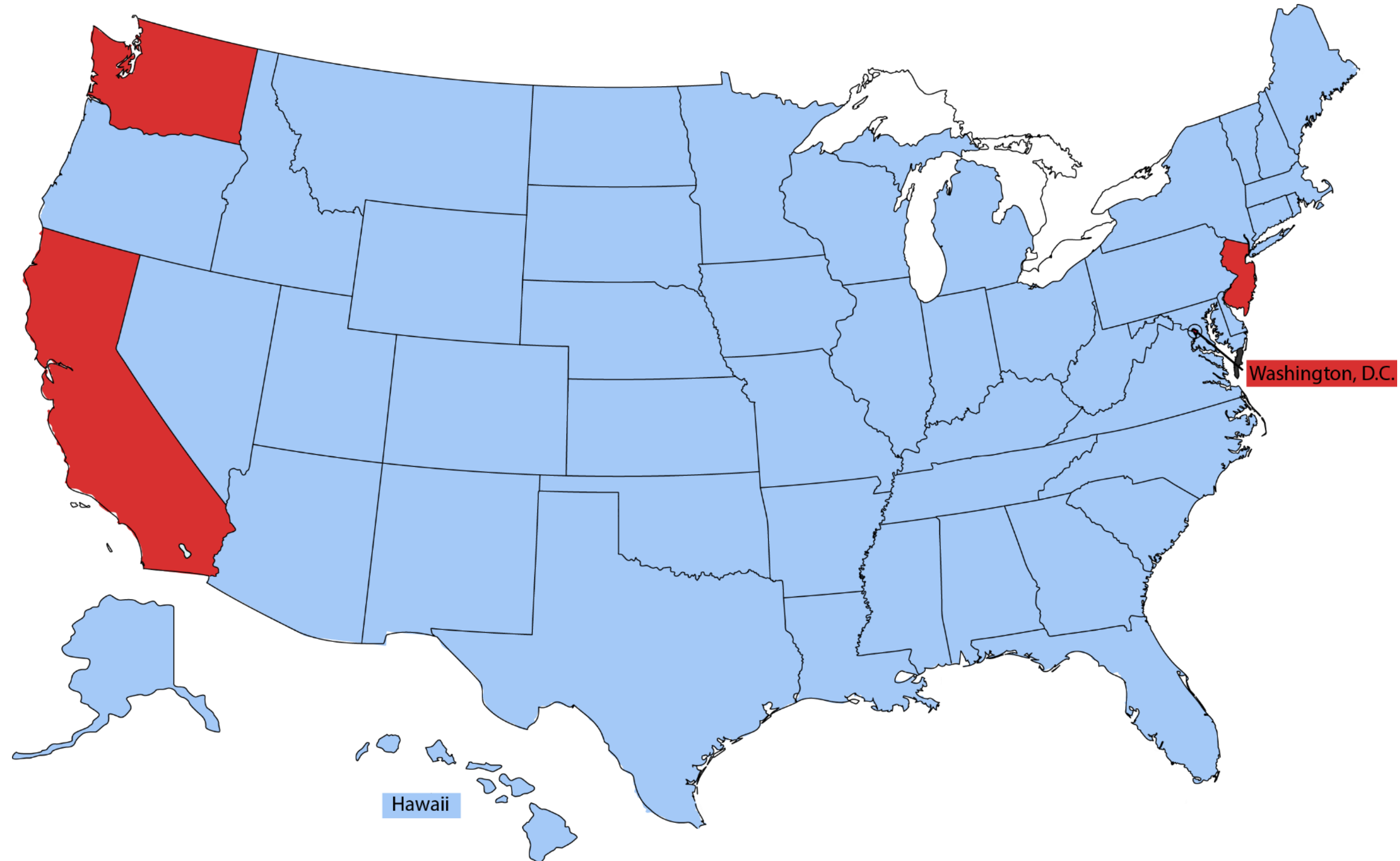
- 2001 – 2016
 - Beck Rights Executive Order (2001)
 - Union Reporting Requirements (2003)
 - Revision of FLSA White Collar Rules (2004)
 - EEOC Erie County ADEA Rules (2007)
 - Pro-Labor Executive Orders (2009)
 - Human Trafficking Executive Order (2012)
 - Disability Affirmative Action Rules (2013)
 - Veterans Affirmative Action Rules (2013)
 - Minimum Wage Increase Executive Order (2014)
 - Wage Confidentiality Executive Order (2014)
 - LGBT Nondiscrimination Executive Order (2014)
 - Blacklisting Executive Order (2014)
 - Paid Sick Leave Executive Order (2015)
 - Reporting of Use of Labor Consultants (2016)
 - EEOC Wellness Program Rules (2016)
 - FLSA Overtime Expansion (2016)
 - EEOC Equal Pay Reporting (2016)

Public Policy Formulation: Preferred Solution



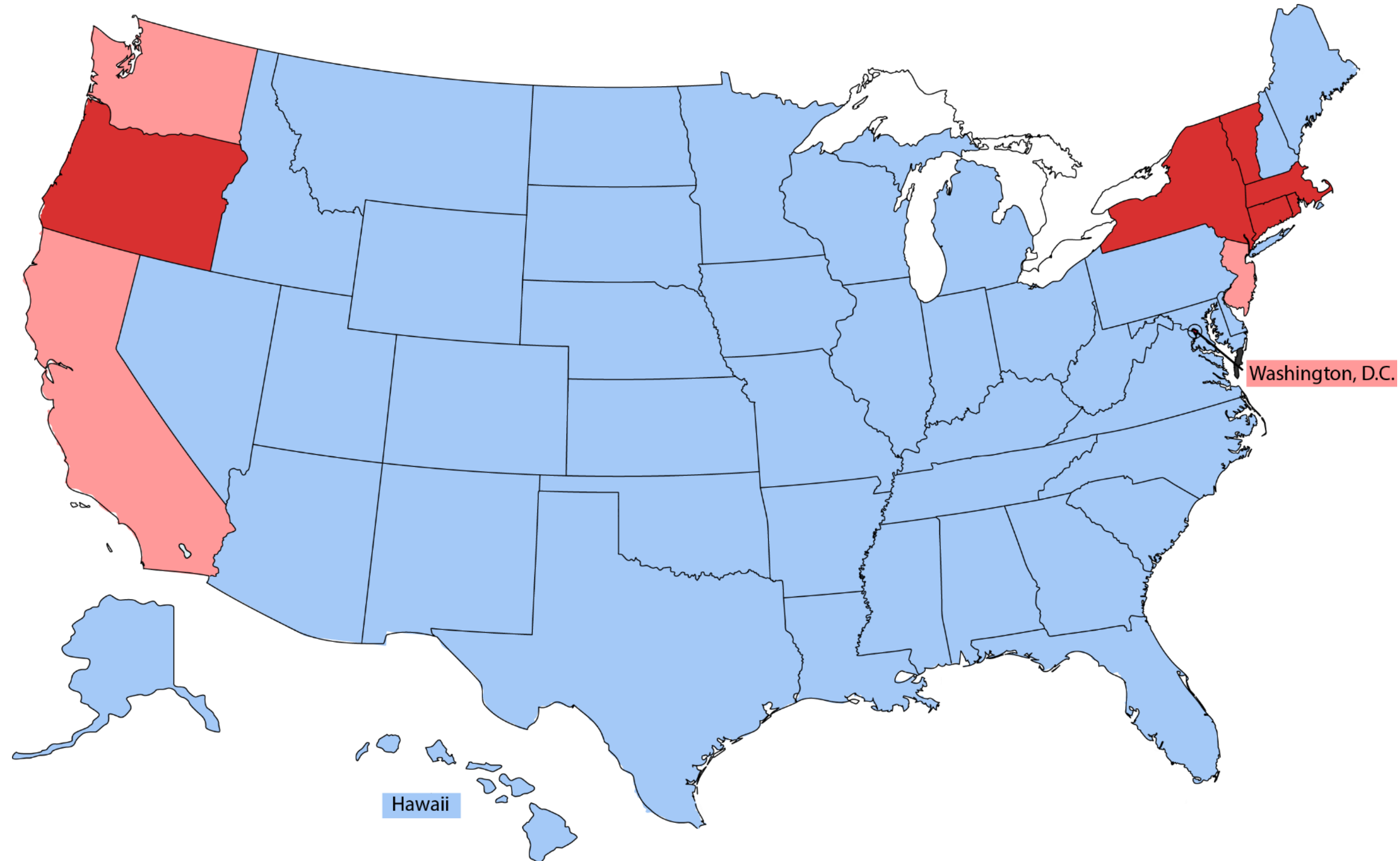
States With Paid Leave Laws

2004-2011



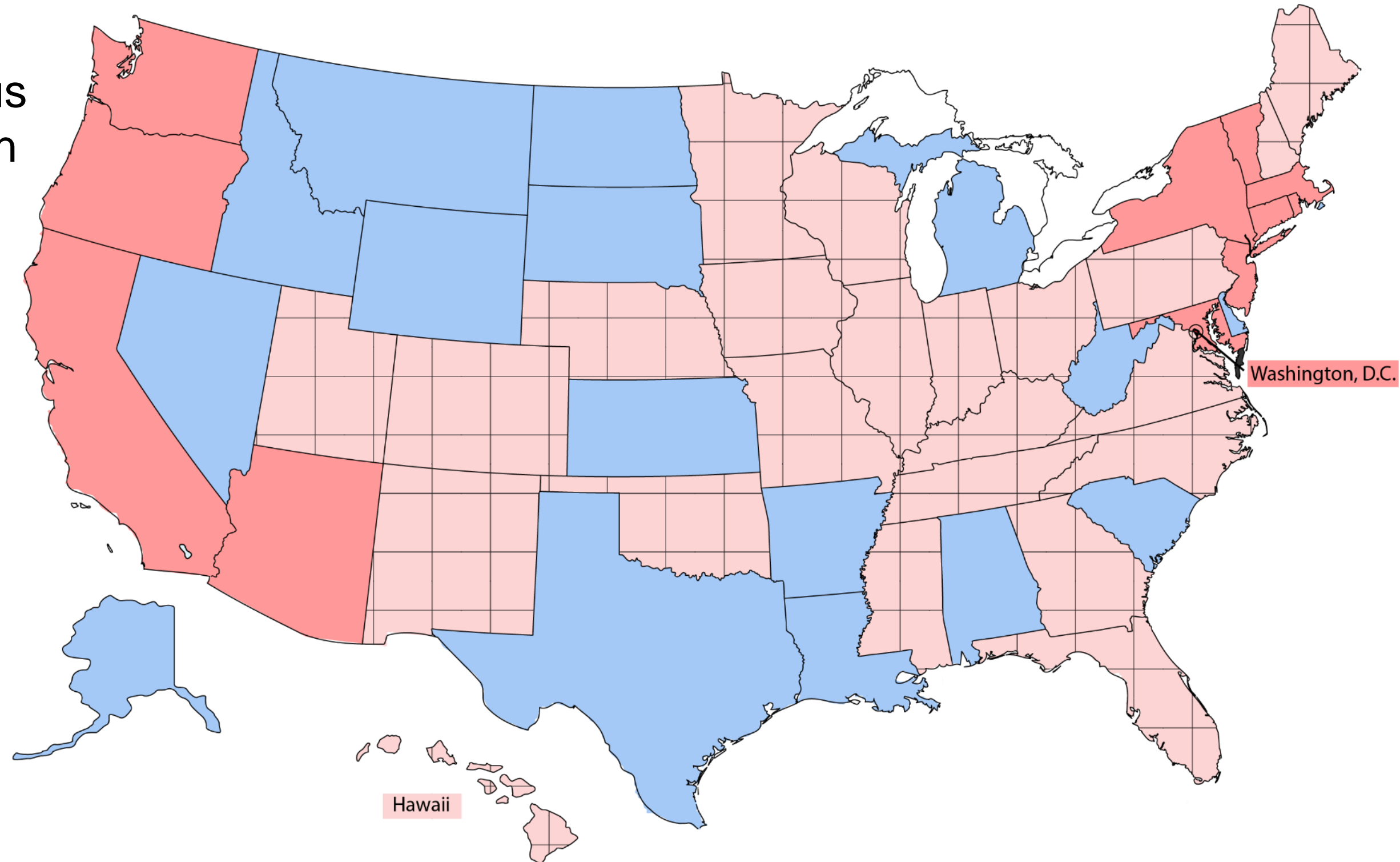
States With Paid Leave Laws

2012-2016



States With Paid Leave Laws

Under Serious
Consideration



Variations in State Paid Leave Laws

- Accrual
 - Connecticut: 1 hour for every 40 hours worked
 - California: 1 hour for every 30 hours worked
 - DC: Based on the number of employees
 - › ≤ 24: 1 hour for every 87 hours worked
 - › 25-99: 1 hour for every 43 hours worked
 - › ≥ 100: 1 hour for every 37 hours worked
- Employee eligibility
 - California: at least \$300 in gross wages during the base period
 - New Jersey: At least 20 calendar weeks, each week \$165 or more, or \$8,300 in the base period
 - Washington: A “qualifying year” (four out of five quarters and at least 680 hours)

The New York Times

Wells Fargo

Fr  **Mo**

WINSTON-SALEM

We

Fra

August 31, 2017

Wells Fargo
million

The New York Times

Oct. 5, 2017

**Harvey Weinstein Paid Off Sexual
Harassment Accusers for Decades**

The New York Times

December 5, 2017

Weinstein's Complicity Machine

THE WALL STREET JOURNAL.

Jan. 27, 2018 1:02 a.m. ET

**Dozens of People Recount Pattern of
Sexual Misconduct by Las Vegas Mogul
Steve Wynn**

Sep 7, 2017 @ 10:42 PM

each Impacts

Sep 8, 2017 10:54 a.m. ET

stock after

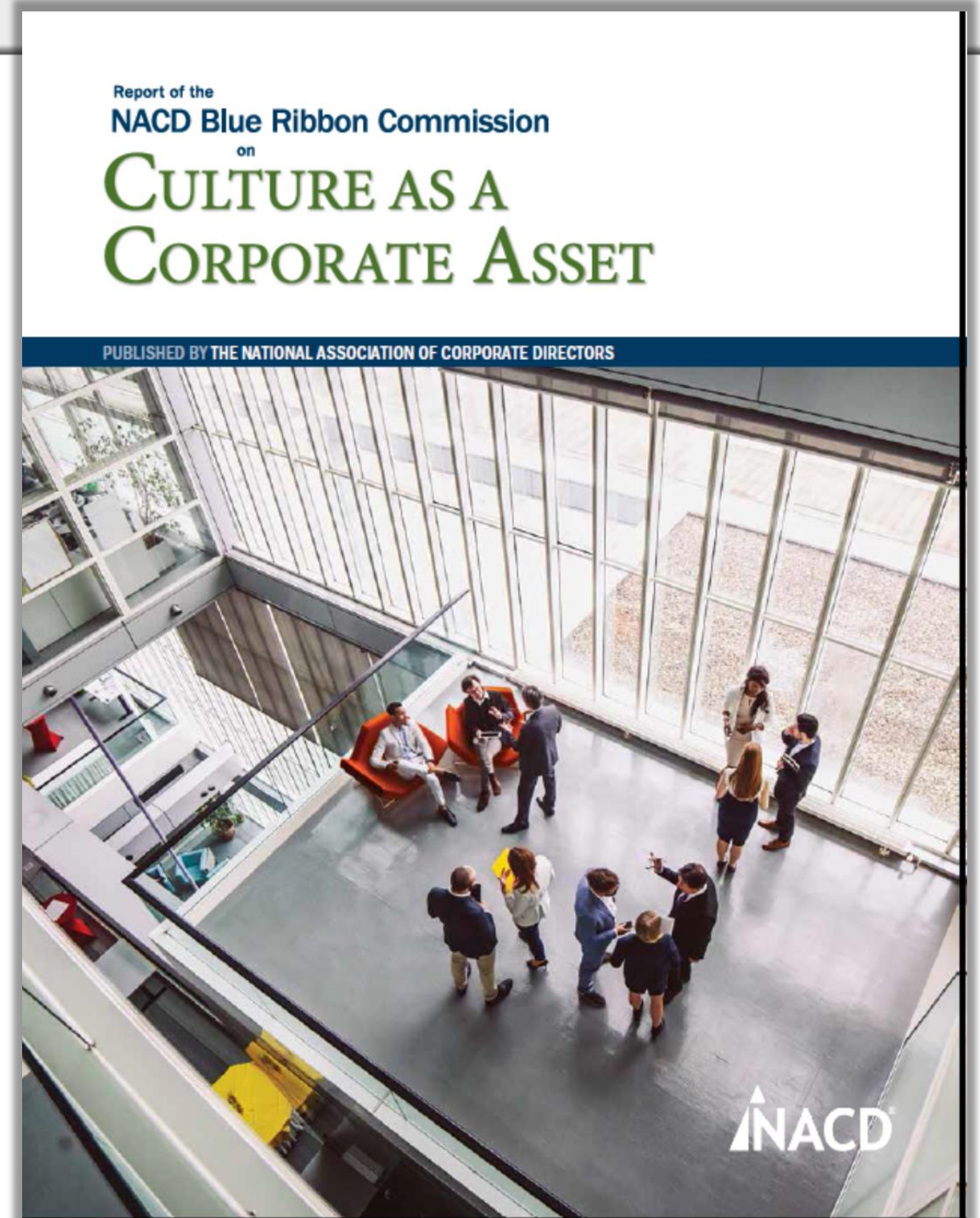
Sept. 26, 2017 3:57 p.m. ET

Apr 21, 2017

**illion for
ounts**

Culture Gains Director Attention

- NACD Blue Ribbon Commission on “Culture as a Corporate Asset”
 - “If led and managed well, culture is the rocket fuel for delivering value to stakeholders”
 - “Culture oversight is by definition a key board responsibility, as it is inextricably linked with strategy, CEO/senior leadership selection, assessment and evaluation, and risk oversight”
 - Call to Action: Directors should elevate the dialogue on culture within the company and within the Boardroom



Public Anxiety Generated by Socio-Economic Change

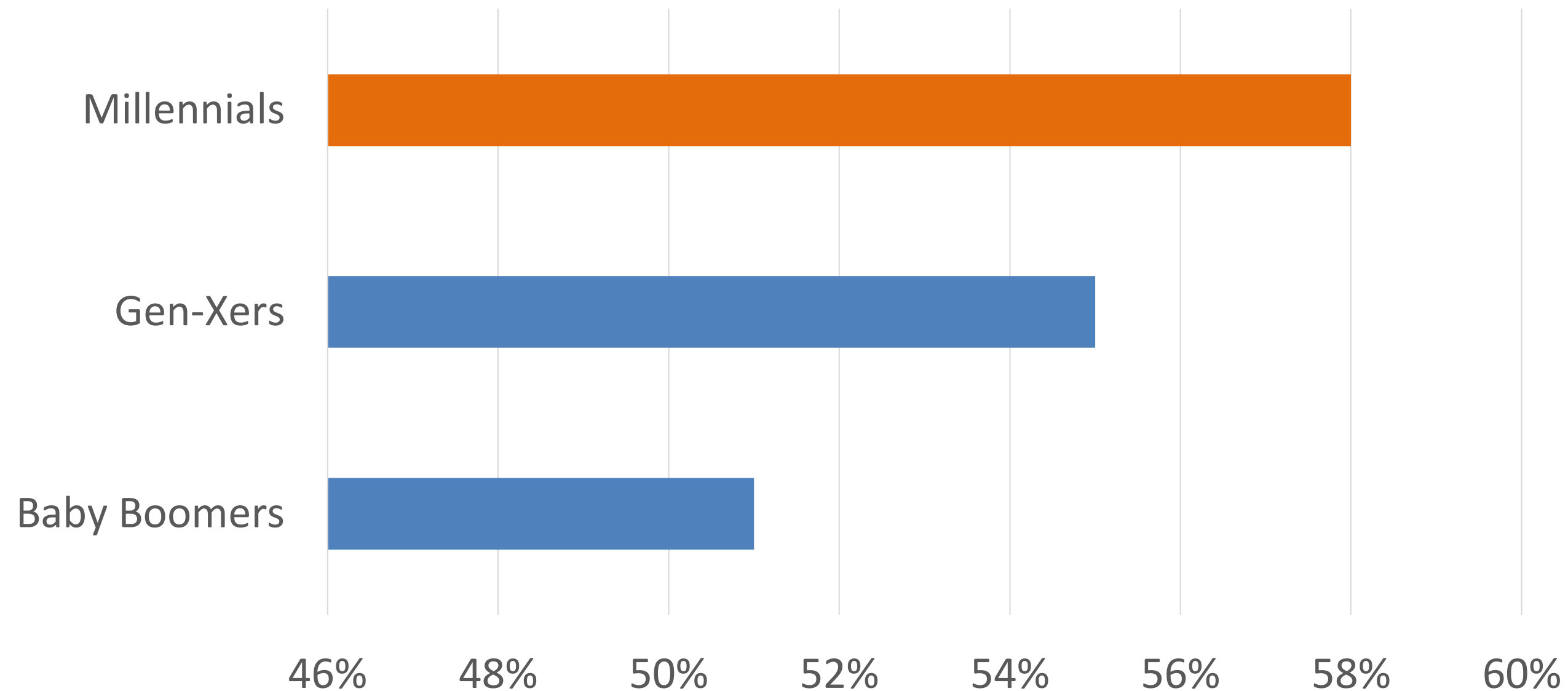
- Racial and gender diversity following Charlottesville and Google memo
- Impact of artificial intelligence, robotics and automation on work
- Inequality concerns
 - Pay ratio disclosure
 - Gender equity debate
- Global companies not as connected to individual communities
- Shared prosperity and investment in employees/company vs. capital allocation
 - Tax bill impact

Expectations of Corporate Leadership on Societal Issues

Consumer Expectations of Companies

- 66% say it's important for brands to take public stands on social and political issues,
- Brands are most credible when an issue directly impacts their
 - Customers (47%);
 - Employees (40%); and
 - Business operations (31%).

Share of Individuals Who Believe It is Important That Brands Invest in Causes They Care About



Source: InMoment

The New York Times

Mr. Frazier announced Monday morning that he was resigning from the American Manufacturing Council — the first of three chief executives who quit the advisory panel on Monday — to protest Mr. Trump's initial equivocal statements on Charlottesville.



Kenneth C. Frazier
Chairman and CEO, Merck & Co

 FORTUNE

September 5, 2017

IBM on DACA: 'We Stand By Our Dreamers'

 THE
HILL

October 9, 2017

IBM pushing for DACA legislation by the end of the year

BUSINESS INSIDER

November 1, 2017

IBM, Facebook, Twitter, Uber and over 100 other companies have jumped into a lawsuit fighting Trump's decision to end DACA



Ginny Rometti
Chairman, President, and CEO, IBM

FORTUNE February 28, 2018

Dick's Sporting Goods Won't Sell Assault-Style Rifles in Wake of Florida High School Shooting

In a major move, Dick's Sporting Goods — one of the country's largest gun retailers — announced Wednesday it would no longer sell any assault-style rifles, effective immediately.





March 2, 2018

Georgia governor signs bill nixing Delta tax break after NRA split

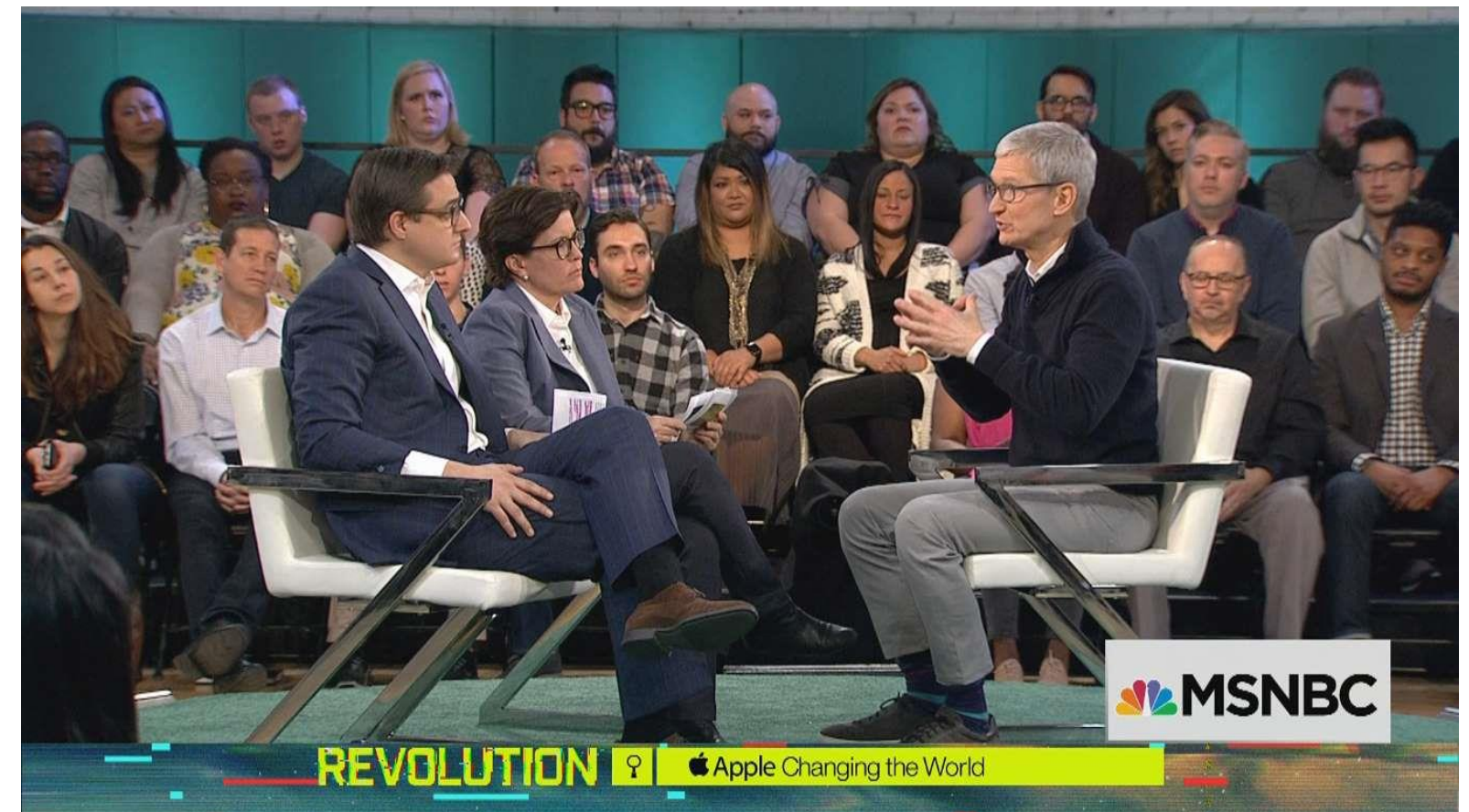


Georgia Gov. Nathan Deal on Friday signed into law a tax bill that fellow Republicans used to punish Atlanta-based Delta in retaliation for the airline's decision to sever ties with the National Rifle Association.

Apple CEO Slams Facebook: Privacy Is a Human Right

"The truth is we could make a ton of money if we monetized our customer, if our customer was our product," Cook said. "We've elected not to do that."

– Apple CEO Tim Cook
March 29, 2018



Do Your Executives Take a Public Stand on Policy Issues?

- 48% No, we believe leadership should abstain from public positions not directly related to our business
- 27% Yes, we believe on certain issues, our leadership should take a position even if not directly related to our business
- 19% Have not addressed so far
- 6% Other

Investors' Changing Expectations for Companies

Why Are Investors Focused on ESG Issues?

- **Demand**: Assets managed with responsible investment criteria grew from \$18.3 trillion in 2014 to \$22.9 trillion in 2016
- **Competitive Advantage**: Big data has made typical financial analysis virtually ubiquitous
- **Impact**: Companies with quantifiable measures in certain key areas perform better than peers:
 - Diversity
 - Resource intensity
 - Employee Turnover
 - Emissions
 - Business Ethics Improvement Tools

UN Principles for Responsible Investment

- Incorporate ESG issues into investment analysis and decision-making processes.
- Be active owners and incorporate ESG issues into our ownership policies and practices.
- Seek appropriate disclosure on ESG issues by the entities in which we invest.
- Promote acceptance and implementation of the Principles within the investment industry.
- Work together to enhance our effectiveness in implementing the Principles.
- Report on our activities and progress towards implementing the Principles.

Major Investors Signing on to the UN PRI

- BlackRock
- Capital Group
- Fidelity
- State Street
- TIAA-CREF
- Vanguard

“Society is demanding that companies, both public and private, serve a social purpose. To prosper over time, every company must not only deliver financial performance, but also show how it makes a positive contribution to society. Companies must benefit all of their stakeholders, including shareholders, employees, customers, and the communities in which they operate.”



BLACKROCK

– BlackRock CEO Larry Fink’s 2018 Letter to S&P 500 CEOs

Should Your Company Agree With the BlackRock Letter?

- 36% Strongly agree that companies must deliver financial performance and make a positive contribution to society
- 56% Agree
- 5% Disagree
- 1% Strongly disagree
- 2% Not sure/No opinion

Sustainability: Investors Increase Pressure on Companies

Sustainability Principles and Ratings

- Global Reporting Initiative
- Sustainability Accounting Standards Board
- Task Force on Climate-related Change

Large Investors Are Now Acting on Environmental Issues



Exxon Mobil loses support of a powerful voice in climate change policy

Aug 31, 2017

It's official: index fund giant Vanguard

Group voted against Exxon Mobil management for the first time to require the oil and gas giant to report on climate change, according to proxy voting records published by Vanguard on Thursday.



The New Industry: Assessing Companies on ESG Issues

- Entities assessing companies on behalf of investors and providing a rating or report
- Leading providers
 - Bloomberg ESG Data Service
 - Corporate Knights Global 100
 - ISS E&S Ratings
 - MSCI ESG Research
 - RepRisk
 - Sustainalytics Company ESG Reports

ISS Environmental and Social Quality Score

- Two scores on a scale of 1 to 10, one for environmental and one for Social Issues
- Issues analyzed under social category:
 - Human Rights – management policies, ethical sourcing, and supply chain
 - Labor, Health and Safety – workforce diversity and equality, training and development, and compensation and benefits
 - Stakeholder and Society – business ethics and anti-corruption, motivation and accountability, lobbying and political advocacy
 - Product Safety, Quality and Brand – which includes data security and privacy as well as ethical marketing and communication

July 2017 SEC Rulemaking Petition on Human Capital Metrics

- “Human Capital Management Coalition” comprised of 25 pension funds/stakeholders led by UAW Retiree Medical Benefits Trust, CalPERS and CalSTERS
- Seek mandatory proxy disclosure issues including:
 - Number of full and part-time workers and policies on subcontracting
 - Voluntary and involuntary turnover rates, internal promotions
 - Diversity, pay equity, audits and ratios
 - Training and the alignment of initiatives with strategy and skill gaps
 - Employee engagement, union representation, work-life initiatives
 - Health and safety measures
 - Productivity and bonus metrics and risk assessment below proxy officers

BlackRock 2018 Statement on Human Capital Metrics

- Companies cited in *Fortune*'s "100 Best Companies to Work For" earned excess long-term risk-adjusted returns of 3.5%
- Focus on "management of employees as an investment issue"
 - Companies state they are operating in "Talent constrained environment"
 - How are they establishing themselves as the employer of choice?
- Board focus
 - Employee protection, company culture, diversity, linkage to exec comp
- Management focus
 - Employee engagement, health and safety, turnover, diversity, labor

Should Companies Share HR Practice Data Publicly?

No

Yes, but only if relevant to investor understanding and disclosure would not provide advantage to competitors

Yes, but only if relevant to investor understanding

The External Push for Gender Equity

Case Study: Gender Pay Equity

- U.S.: In 2018, 23 states have seen proposed pay equity legislation, joining 12 that have acted in previous 12 months
- UK: Gender Pay Gap Regulations 2017
 - The difference (as a %) between men's and women's mean and median pay
 - Number of male and female employees within each of four quartiles
 - The difference between men's and women's mean and median bonus pay for the 12 months
 - The proportion of male and female employees who received bonus pay in the pay period

Gender Pay Equity in the Spotlight

“Pay equity is no longer a defensive conversation, but a badge of honor that companies see as critical to attracting and retaining top talent.”



– Natasha Lamb, Arjuna Capital Managing Partner

Shareholder Initiatives Effective in Last Two Years

- Arjuna Capital: targeted tech, finance and retail in 2018 (13 proposals filed; almost all withdrawn)
 - 21 companies have made public commitment to analyze and close gender pay gaps
 - “Gender Pay Scorecard” ranks 33 leading global companies on equal pay
- New York Comptroller & Pension Funds: targeted healthcare and insurance in 2017
 - Six companies committed to increased disclosures

Will Company Pledges Be Enough?

- Paradigm for Parity: Achieve gender parity by 2030
 - 71 companies have joined the coalition so far
 - › CEOs, board members and senior executives
 - 5-Point Action Plan provides a roadmap of specific actions to catalyze change
 - Toolkit on how to analyze gender diversity data, improve diversity in recruiting/talent management, mitigate bias
- Catalyst builds workplaces that “work for women”
 - More than 800 organizations worldwide
 - Major focus on equal pay

Pay Gap Disclosures

- Google: disclosed data showing 0% pay gap for 89% of employees worldwide
 - Paid \$270,000 to increase wages for 228 employees
 - Remaining 11% in job groups “too small” to analyze; included senior executives
 - Published analytics toolkit on rework.withgoogle.com
- Starbucks: announced 100% pay equity in the US
 - Published principles and best practices

HR Public Policy Issues

Pay Gap Disclosures

- Considerable activity at the state and local level
 - Prohibiting pay history inquiries
 - Broadening scope of comparable positions
 - Limiting employer defenses
 - Expanding penalties/remedies
 - Mandating disclosure of pay disparities
 - Providing safe harbors for employers
- HR Policy/Workplace Policy Institute critique issued

Sexual Harassment

- “Ending Forced Arbitration of Sexual Harassment Act”
 - Bipartisan bill supported by AGs in all 50 states
 - Goes beyond bill title, covers all sex discrimination claims
 - Up to 40% of HR Policy members use mandatory arbitration agreements
 - Employer “victory” in Supreme Court could generate more support for bill
- States considering new laws
- Potential for broader measures

Attack on Independent Contractors

- California Supreme Court in Dynamex: grants “employee” status to anyone a business “engage[s], suffer[s] or permit[s]” to work
 - Similar interpretations in NJ and Massachusetts
 - Much more difficult for employers to enter into independent contractor relations
- NLRB considering whether employer misclassification of independent contractors is a per se lab or law violation
 - HR Policy amicus curiae brief asserted the critical role of independent contractors in the economy
- Center for American Progress: allow independent contractors to collectively bargain
- BUT: some states creating statutory “marketplace contractor” designation to protect independent contractor status (KY, TN, IN, UT)

Expansion of Joint Employer Liability

- NLRB reversed Obama-era decision in December, then reinstated it in February
 - Intends to engage in formal rulemaking on the issue
- Employers still face serious legal liability under FLSA
 - Fourth Circuit: Companies must be “completely disassociated”
- House-passed “Save Local Business Act” would create uniform FLSA and NLRA definition, but unlikely to pass Senate
- Outdated DOL rules
 - Employers required to be “acting entirely independently of each other” and “completely disassociated”

The Role and Opportunity for the Human Resources Function

The Role of HR in ESG Matters

- HR plays a critical part as strategic business partner to the CEO and the C-Suite
 - Monitor and reinforce culture
 - Raise awareness and cultivate action on key employee issues based on events in society
 - Determine when and how to engage in public policy initiatives affecting company
 - Help develop a position on when and if public statements should be made
 - › Business issues
 - › Societal issues
 - Protect confidential business information

The Opportunity for HR

- Working with the CFO, GC investor relations and government relations, help develop/tell the story of the company's HR value proposition
 - Business purpose?
 - HR efforts related to strategy?
 - External efforts on high profile issues?
 - Community involvement
- Reinforce how employees are connected to the business
- Engage with external stakeholders, especially large investors
- Participate in employer organizations to share practices, develop principles

Questions?

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