

# KB Associates London Seminar

June 7<sup>th</sup> 2019



# Welcome

**Andrew Kehoe**

Head of Legal, KB Associates

## Substance Requirements Background

- ❑ Substance is a prevailing theme across the global funds industry
- ❑ ESMA Supervisory Coordination Network (“SCN”) aims to introduce a common approach to substance and to avoid regulatory arbitrage
- ❑ Central Bank of Ireland – CP86 Fund Management Company Guidance
- ❑ Brexit driving substance requirements
- ❑ Central Bank of Ireland review of the implementation of CP86 expected Q3/Q4 2019

## Survey Framework

- ❑ Distributed to independent directors, asset managers, legal advisors and consultants/designated persons
- ❑ Survey responses collected between February and May 2019
- ❑ Core topic: substance requirements in the Irish funds industry

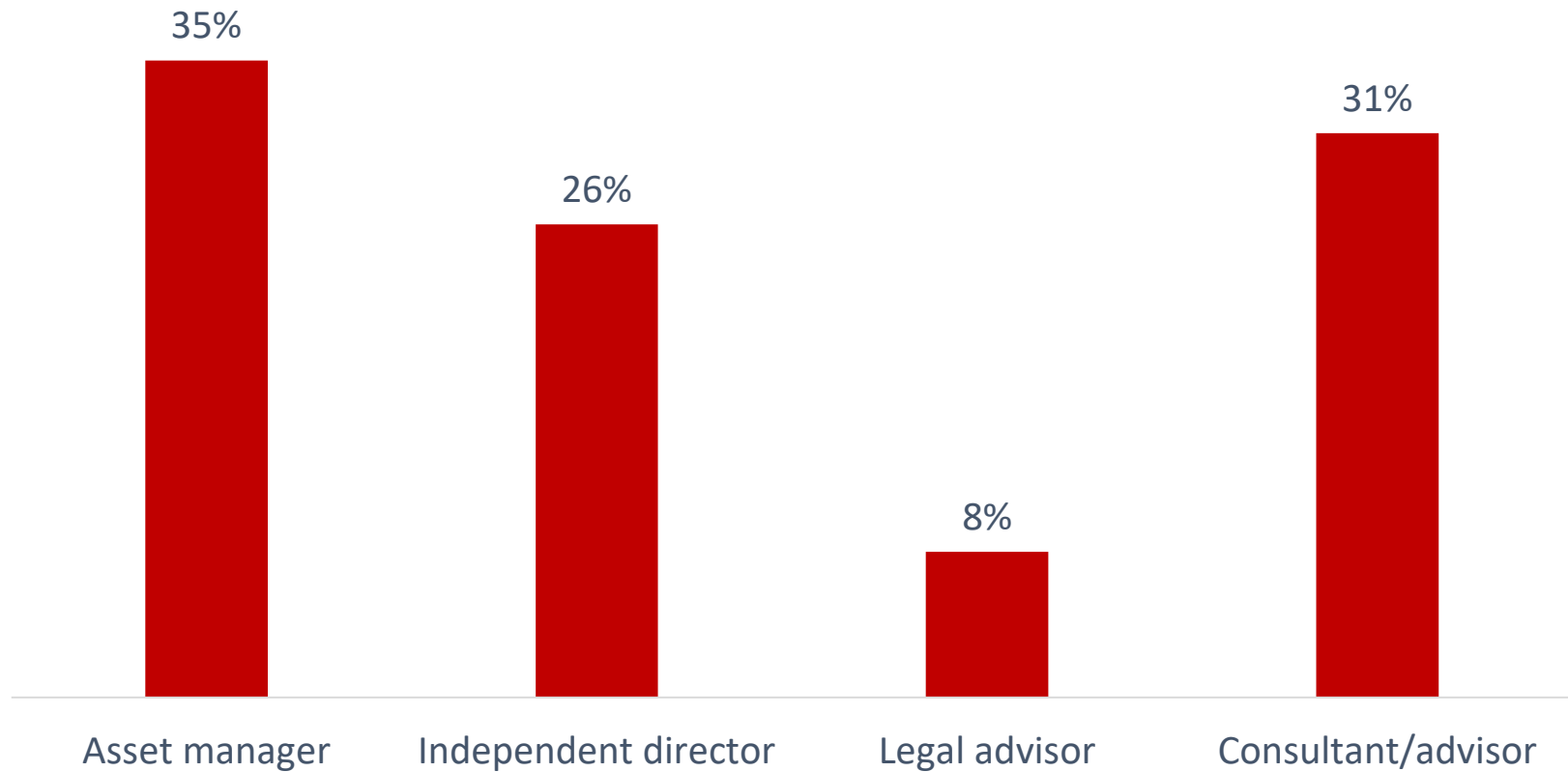
# **Substance Requirements in the Irish Funds Industry KBA Survey - Presentation of Results**

**Andrew Kehoe**

Head of Legal, KB Associates

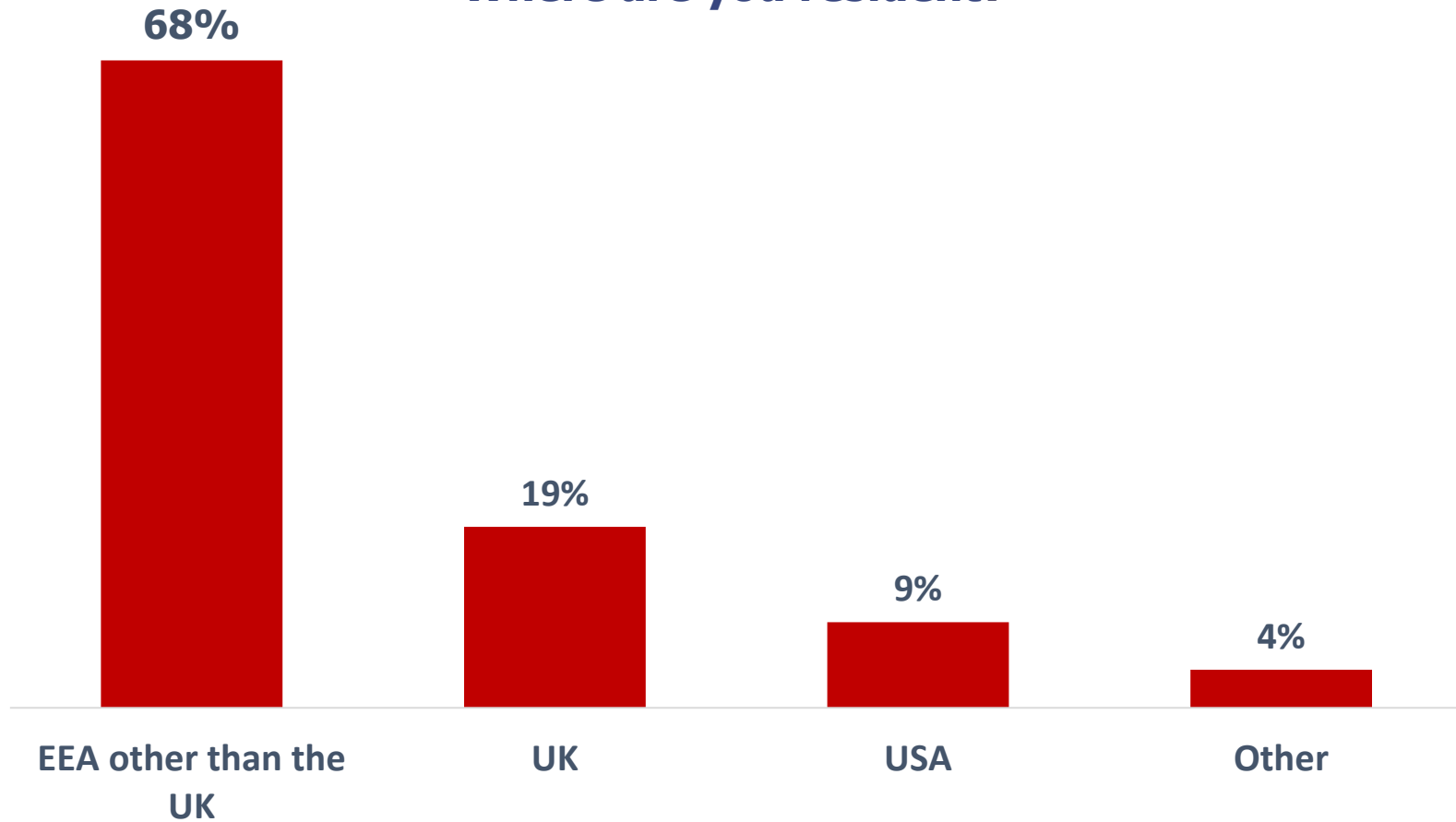
## Survey Respondents

**What is your primary activity?**

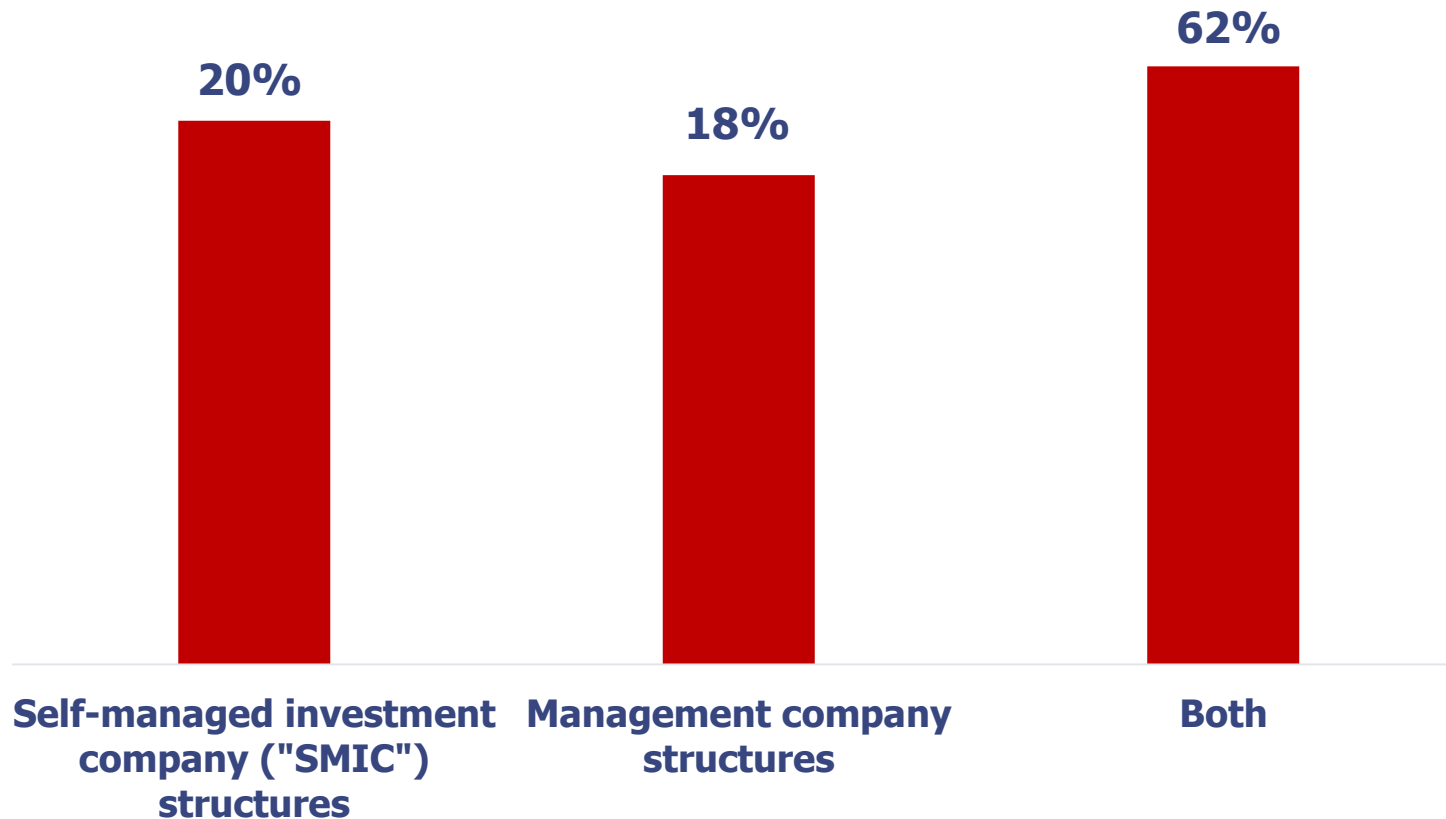


## Survey Respondents

### Where are you resident?

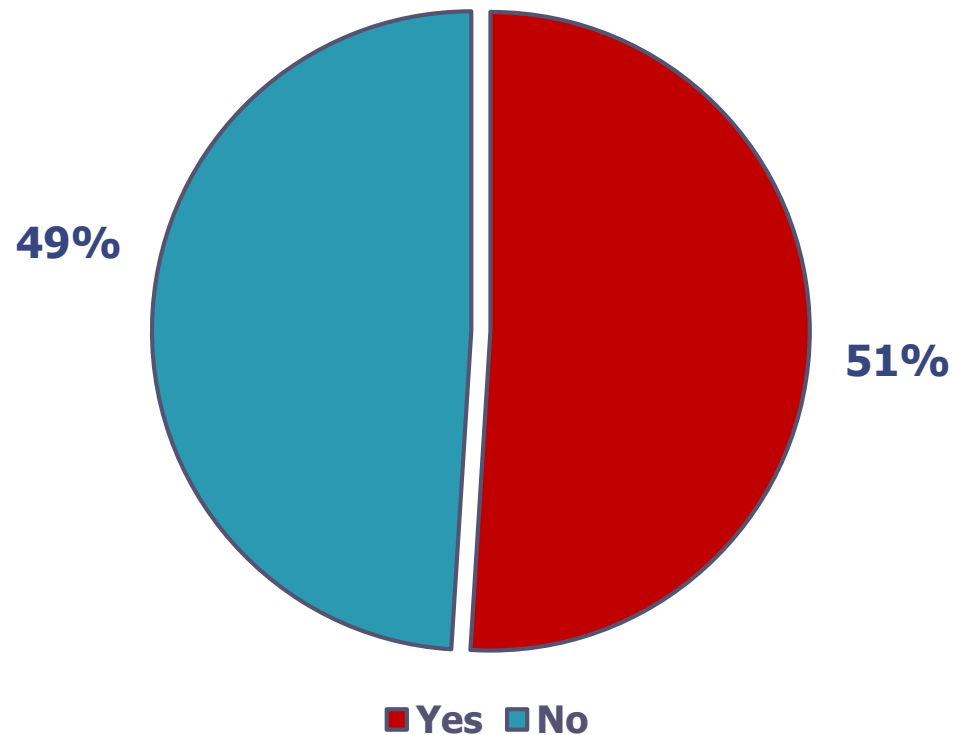


## To which client structures do you currently have exposure?

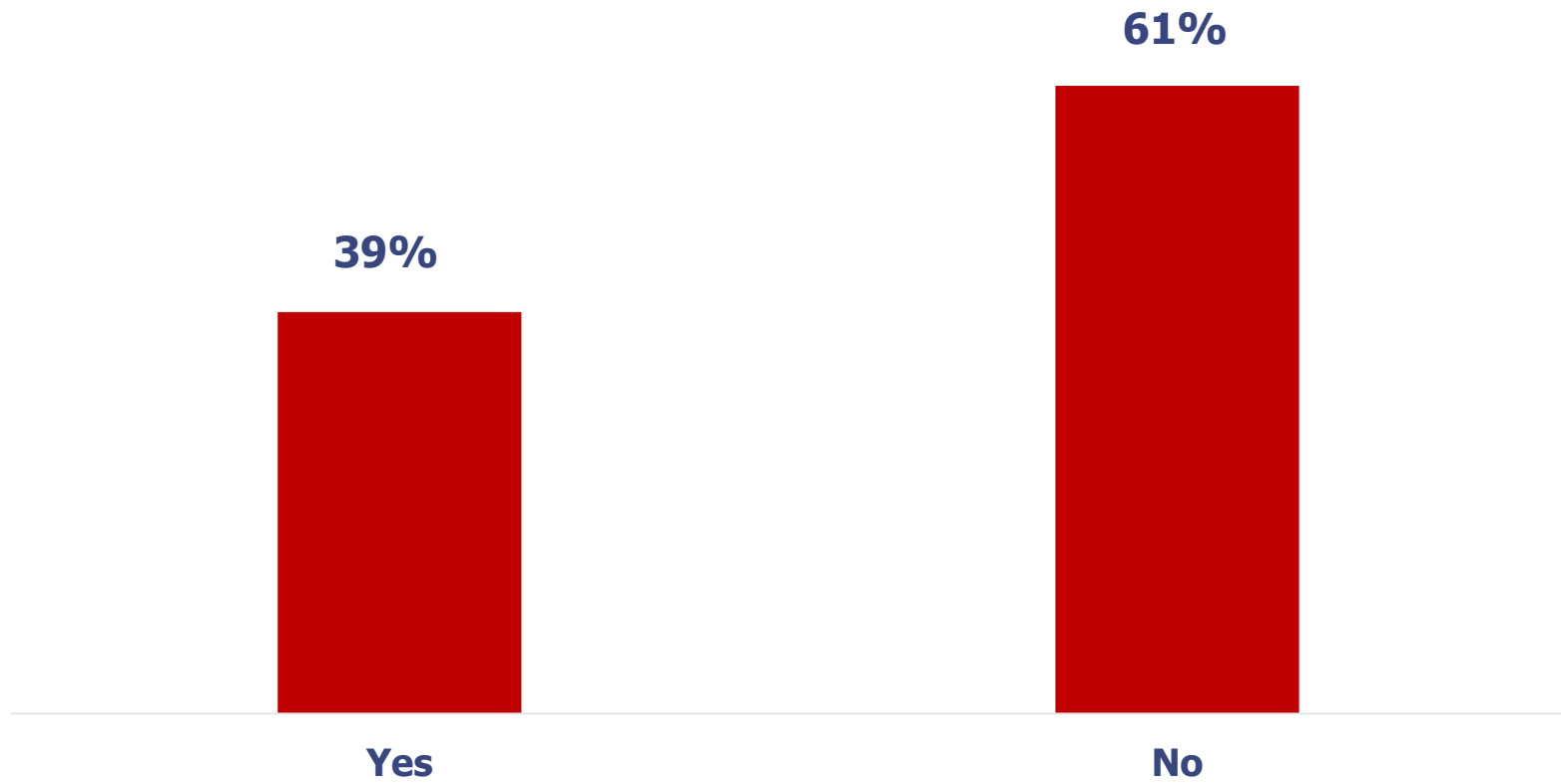




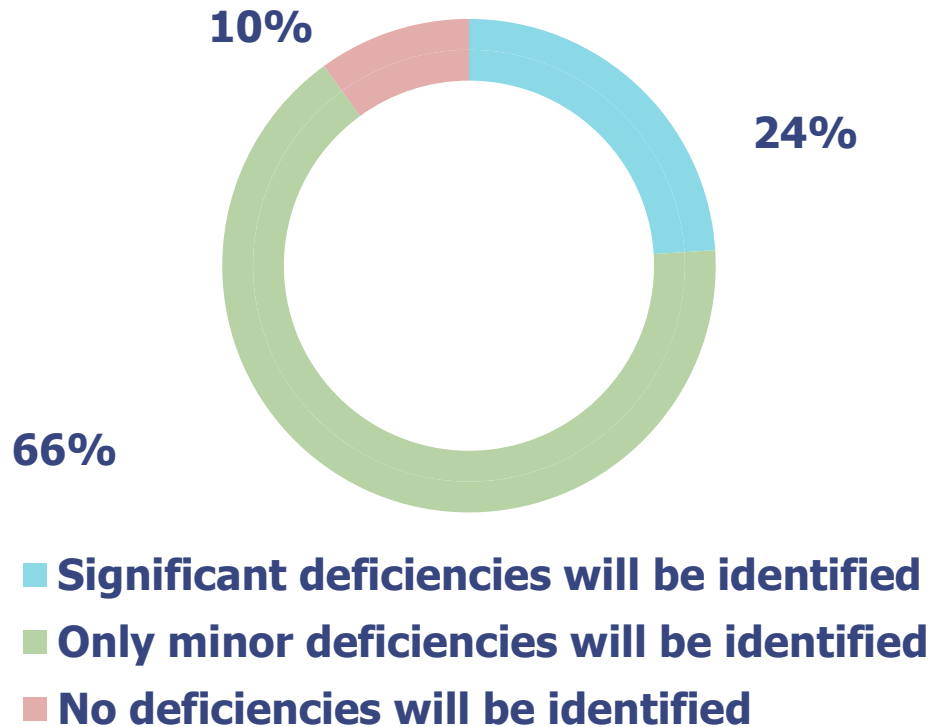
**The ESMA Supervisory Coordination Network ("SCN") aims to remove regulatory arbitrage and have a common approach to substance requirements. Do you think it is achieving its objective?**



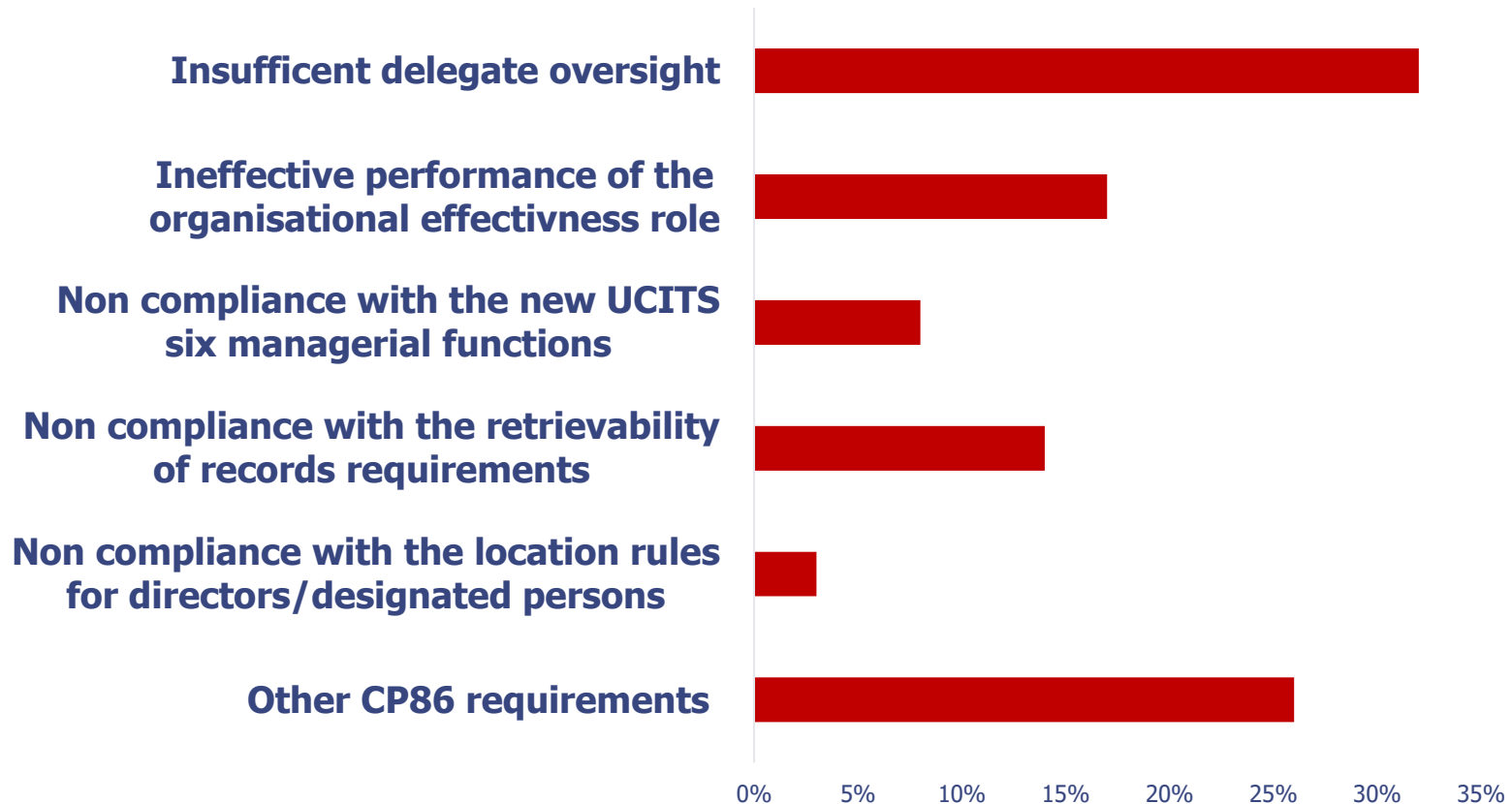
**Is there a need for increased effort/focus in respect of the organisational effectiveness role which Irish funds are required to address?**



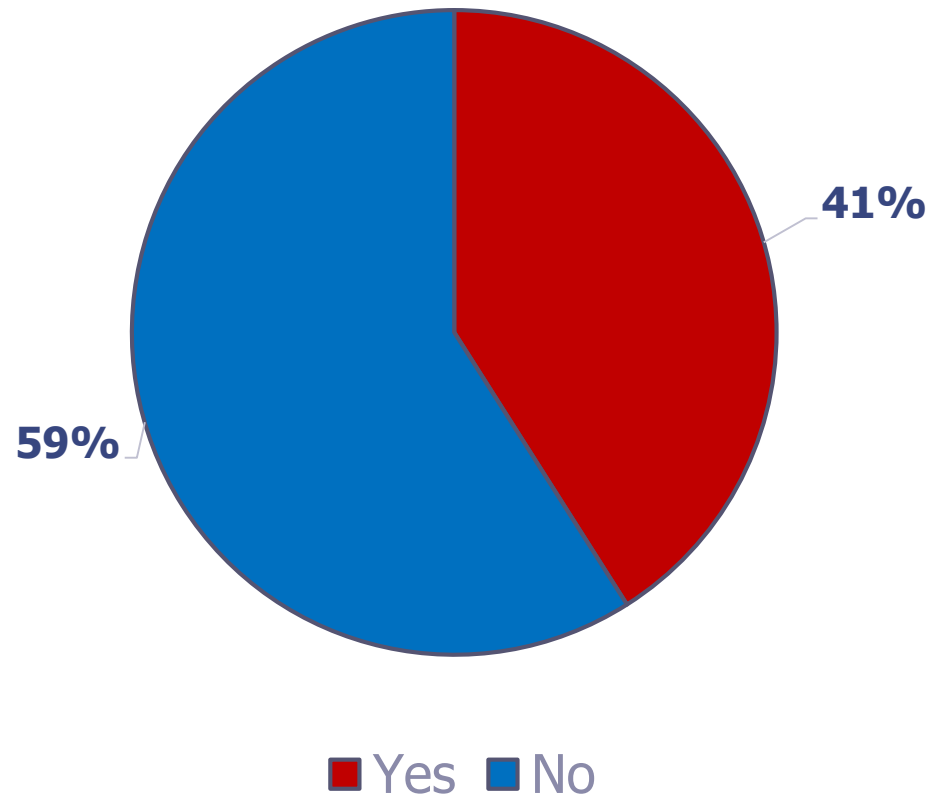
**The CBI will carry out an assessment of SMIC and management company compliance with the requirements of CP86 in 2019. Do you anticipate that significant deficiencies will be identified?**



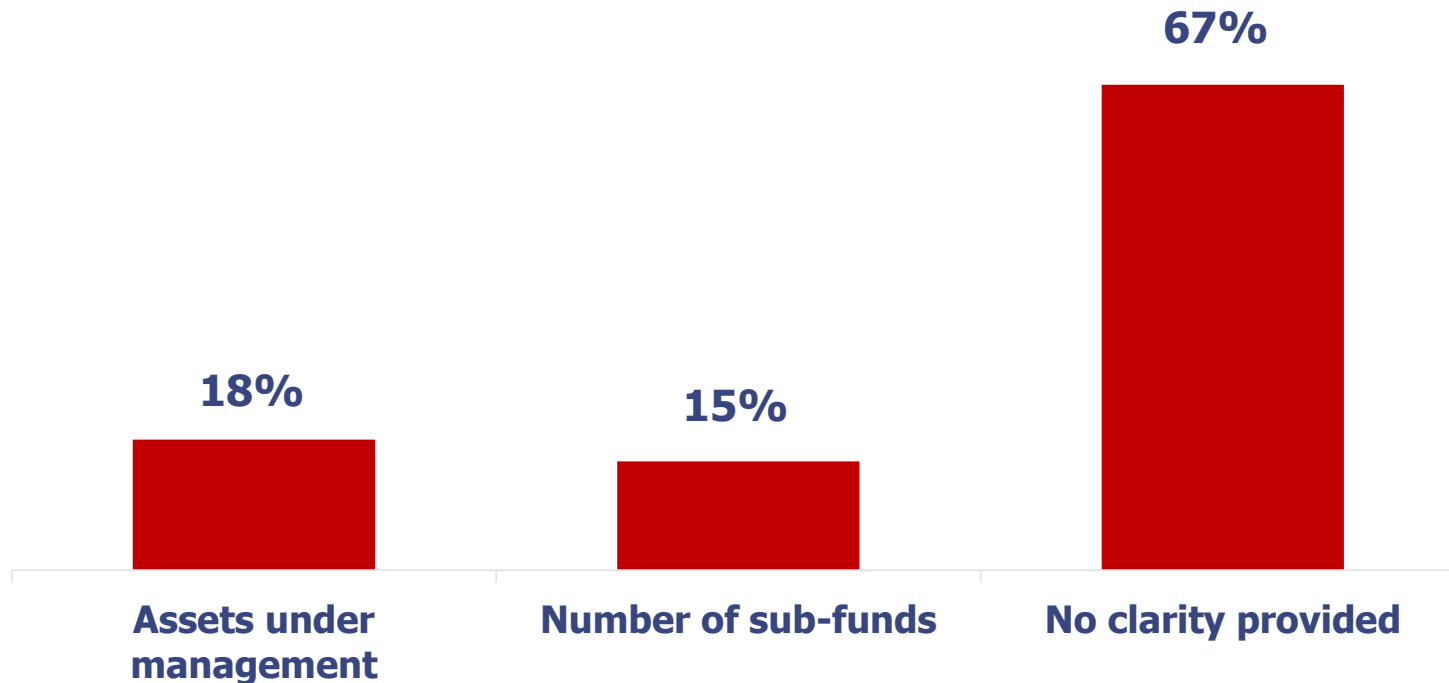
## If deficiencies are identified, in which areas do you expect them to be?



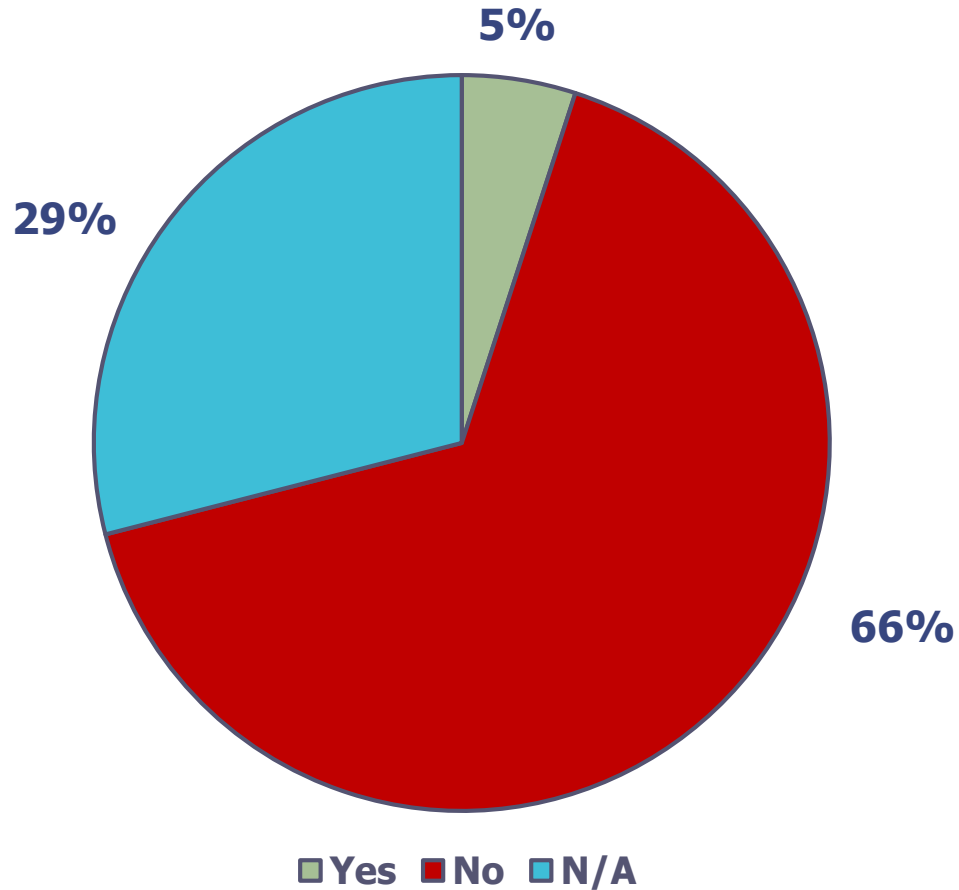
**In light of recent Brexit-driven relocations to Ireland, do you think there is a need for the CBI to increase substance and time commitments?**



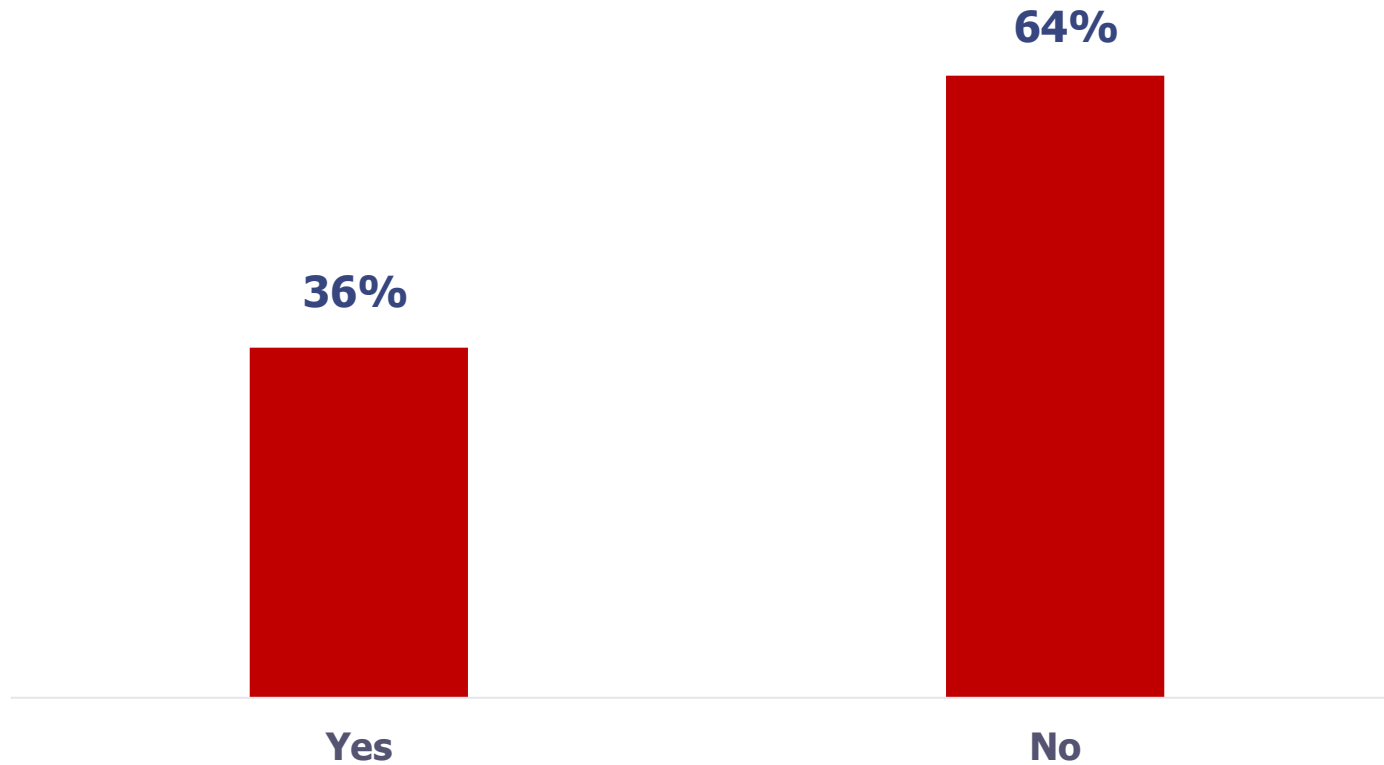
**What do you think has been the key determinant of time commitment requirements for new authorisations during the last year?**



## Do you/your clients plan to establish a SMIC in 2019?

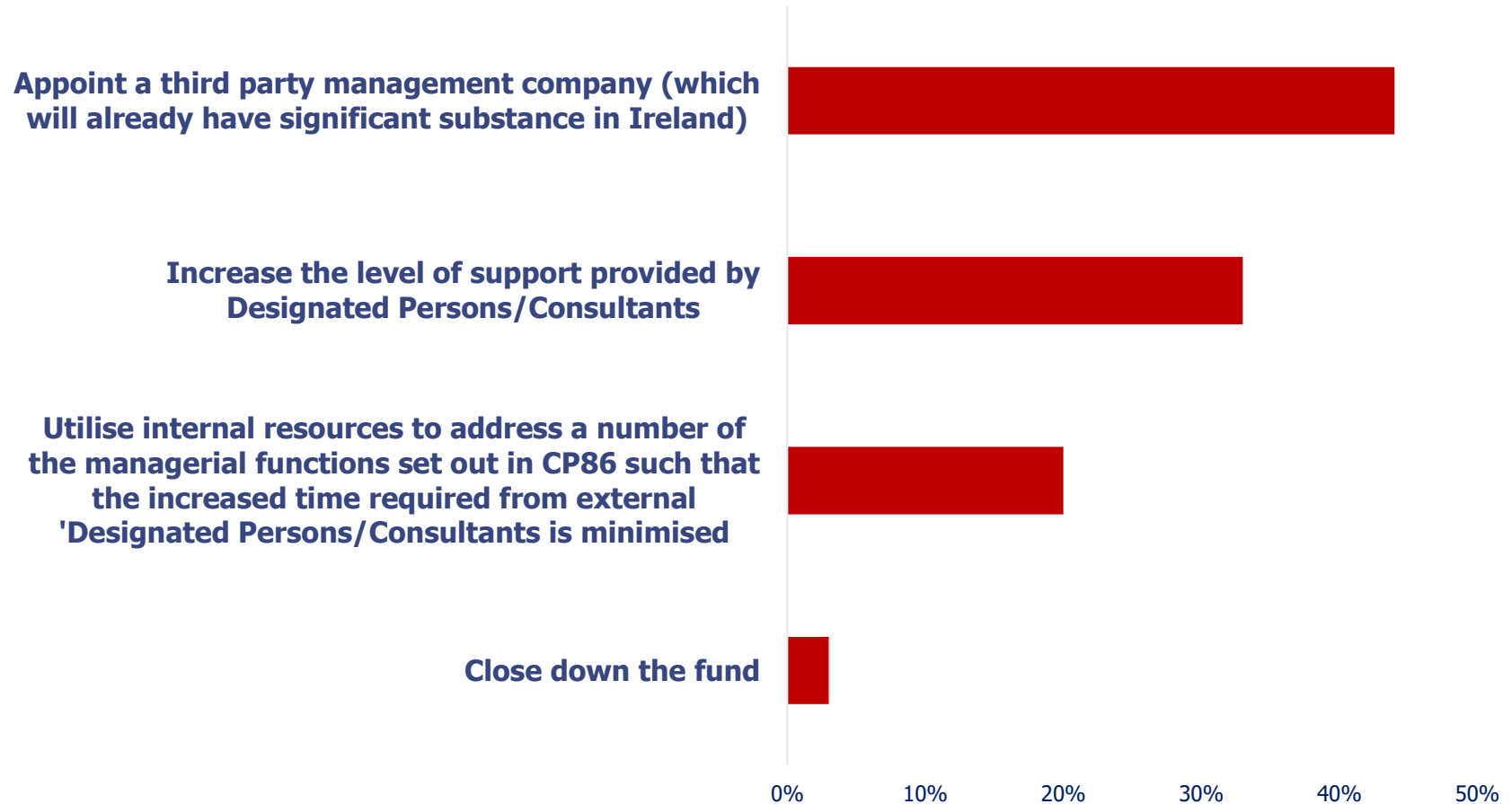


**Do the new substance requirements make it less likely that you will choose Ireland as a fund domicile?**

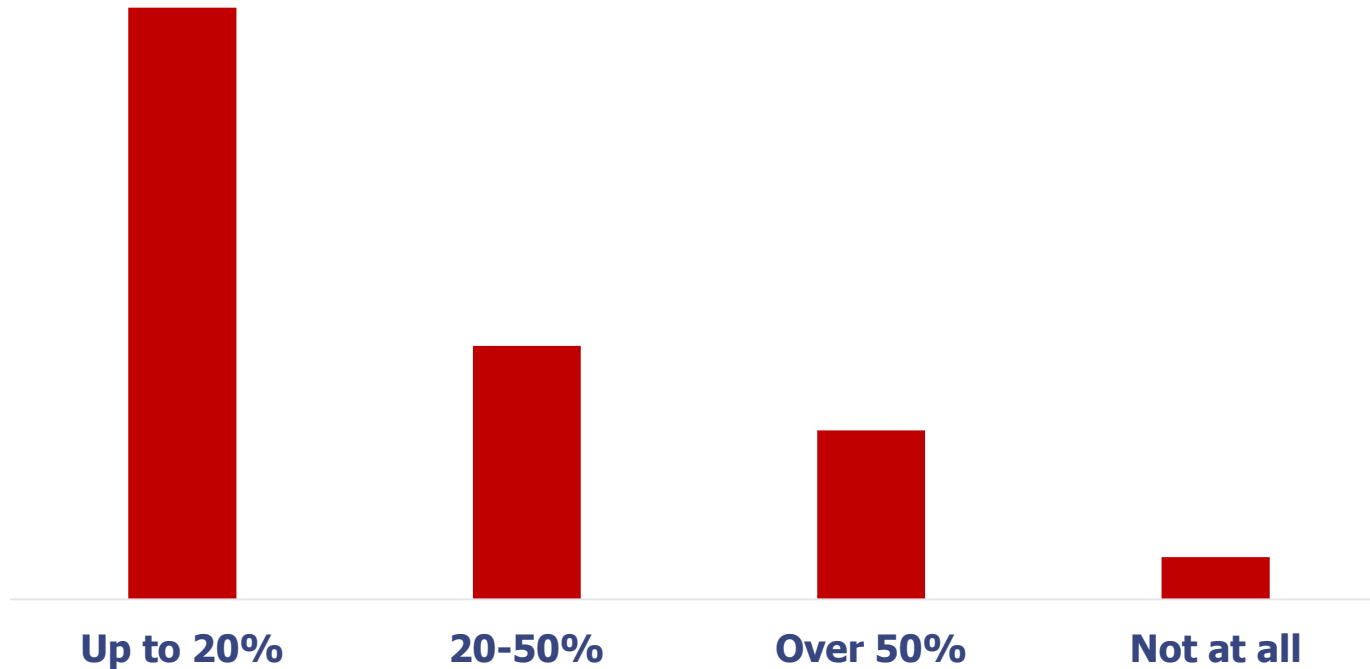




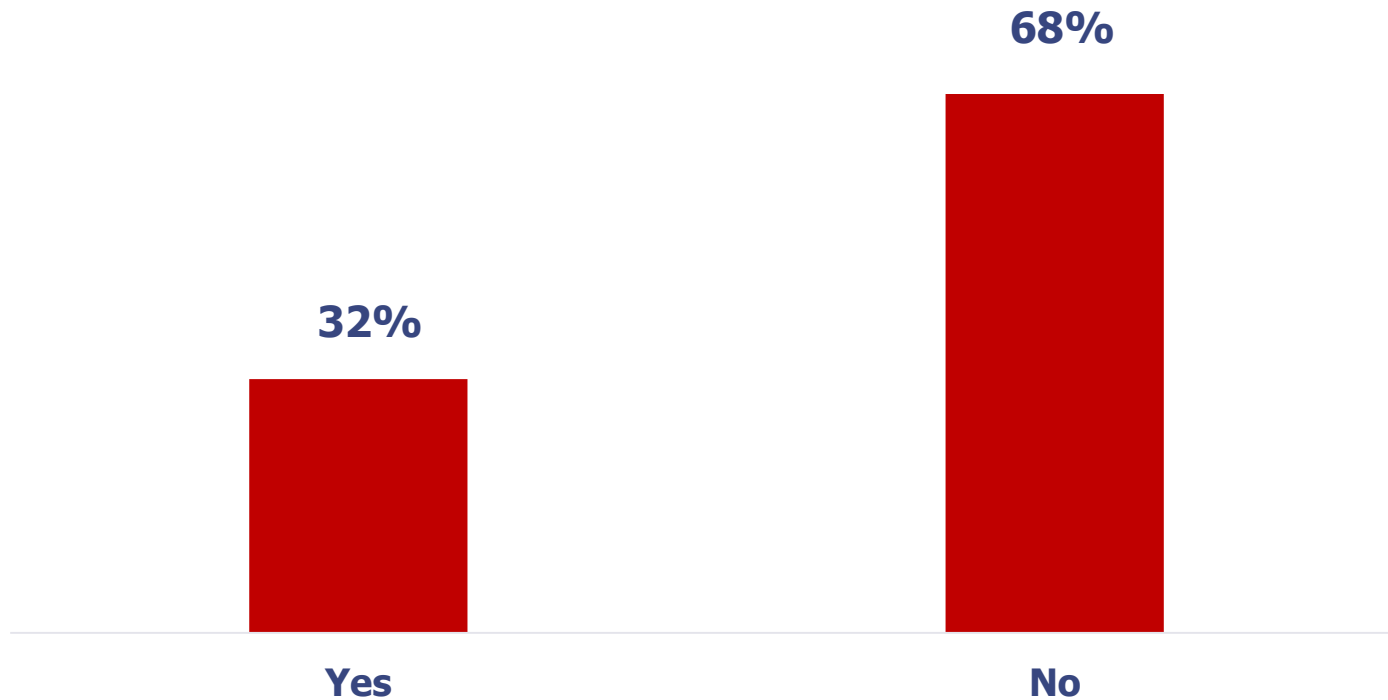
## How do you anticipate addressing the enhanced substance requirements?



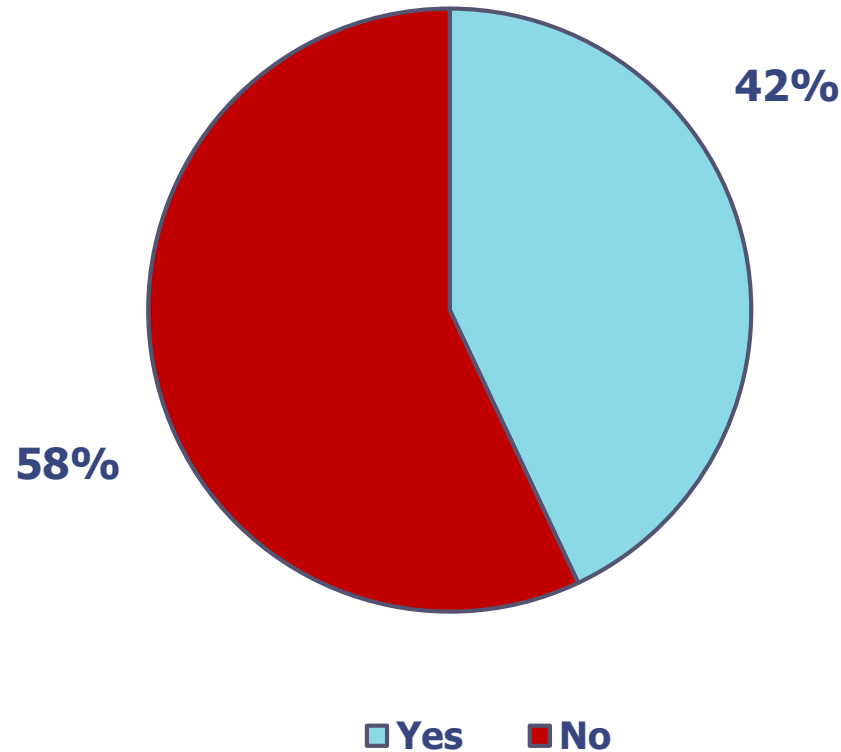
**By how much to you expect the overall cost of CP86 compliance to increase for the SMICs and/or management companies with which you are involved?**



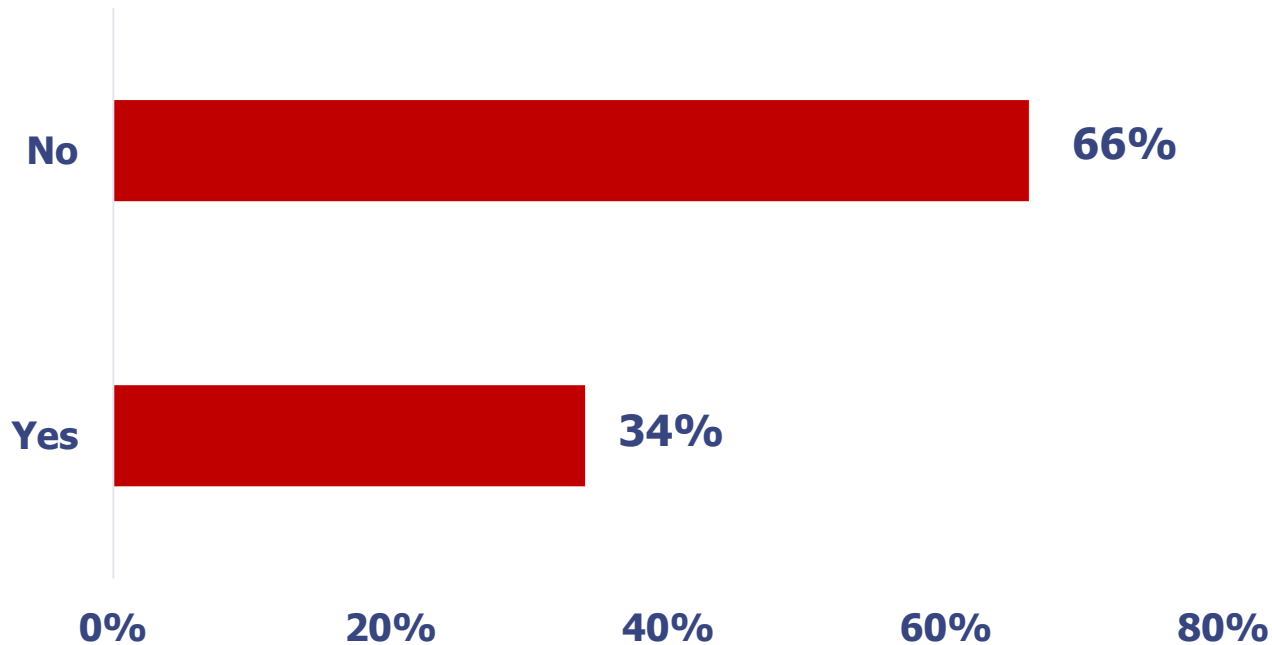
**If costs/substance requirements are significant, is it likely that you will close your fund structure in Ireland?**



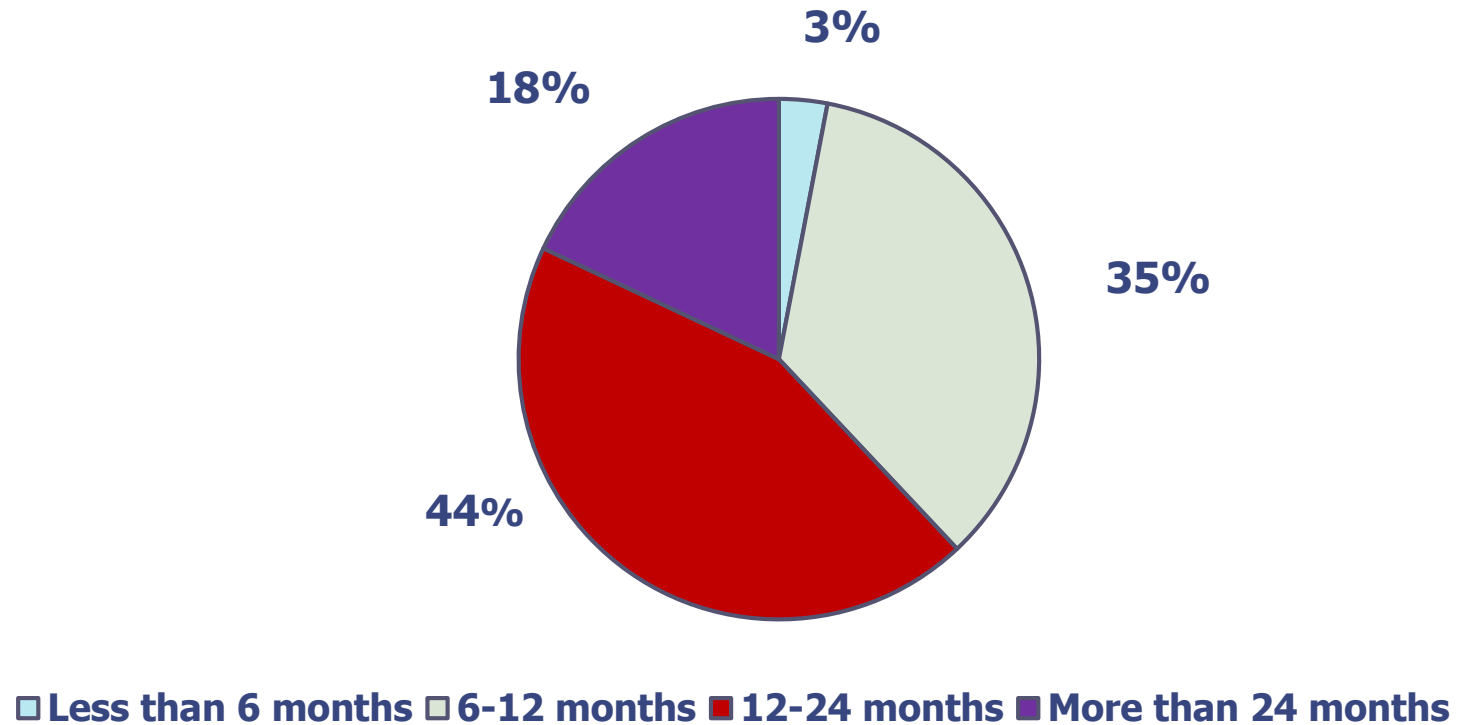
## Will enhanced substance requirements be beneficial to the Irish funds industry?



**Do you intend to employ full time staff in Ireland to meet the CBI's likely enhanced day count requirements (if applicable)?**



**The CBI CP86 substance review is expected to take place in 2019. How long should the transition period to comply with any new substance requirements be?**



# Panel Discussion: Substance Requirements Comparison – Ireland v Luxembourg

## **Moderator:**

**Barry Harrington**, Principal, KB Associates

## **Panellists:**

**Brian Dunleavy**, Senior Consultant, KB Associates (Ireland)

**Declan Casey**, Director, Irish Funds (Ireland)

**Christophe Arnould**, Managing Partner, Ruck Advisors (Luxembourg)

**Florence Stainier**, Partner, Arendt & Medernach (Luxembourg)

# Closing Remarks

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