FENWICK

Navigating Uncertain Times:

IPO Insights for Late-Stage Technology and Life Sciences Companies

2023

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Contents

Executive Summary 3
Key Findings 5
Market Perspectives 7
Getting IPO Ready 16
Bridging the Gap 19
ESG Spotlight 25
Additional Resources 31
Methodology 32

Executive Summary

After 2022's challenging capital markets environment, leaders in the technology and life sciences industries have set their sights on 2023 and beyond—evaluating the private fundraising market, looking for ways to extend their cash runway, considering strategic options and, in certain cases, taking steps to prepare for a potential public debut when the markets improve.

Last year, as interest rates rose and valuations tumbled, the global IPO market collapsed by 94% from 2021 highs. Based on our data analysis, in the tech sector, where there were few notable offerings, none raised over $1 billion, compared to 23 the year prior, and all but one netted under $100 million. Life sciences companies fared similarly, with IPO proceeds decreasing by over $50 billion from 2021 highs near $70 billion. While there were no technology or life sciences direct listings in 2022, there were 78 de-SPAC transactions (55 tech and 23 life sciences) that closed last year, a 54% decrease from 2021.

Looking Ahead to a 2024 Recovery

Although many of the economic, geopolitical and pandemic-related obstacles from 2022 remain, some leaders are beginning to see a light at the end of the tunnel, according to Fenwick's January 2023 survey of 200 U.S.-based investors and executives in the life sciences and technology sectors. The majority of investors expect the IPO market to recover in 2024, which is similar to investor expectations noted in our 2022 report.

Executive Summary

continued

While executives surveyed still have IPO ambitions, nearly half are unsure when their companies will be able to go public.

Our 2023 survey found that while tech and life sciences executives still have IPO ambitions, many continue to be cautious in light of current market conditions, with nearly half of respondents expressing that they are unsure when their companies will be able to go public.

"While we are seeing a number of private companies still making progress on public readiness initiatives so that they are ready to go when the markets reopen, many companies refocused priorities during 2022 and have continued to do so in 2023 in light of current market conditions to ensure the stability of their business in anticipation of a macroeconomic slowdown," said Fenwick partner Ran Ben-Tzur, who frequently advises tech companies on IPOs and other going-public transactions.

Cost Optimization and Exploring Strategic Alternatives in 2023

With a tighter market for capital, many late-stage growth companies are taking actions to extend their runway, including through cost-cutting measures or raising additional private financing (mostly additional rounds of venture capital funding, as well as debt financing), as well as evaluating strategic alternatives such as mergers and acquisitions (M&A) and partnerships. Companies are also focusing on achieving operating profitability and becoming cash flow positive in response to investor feedback.

As executives explore alternate funding options, investor sentiments are mixed for 2023. Year-to-date through February, the Nasdaq 100 Technology Sector (NDXT) was up 15.4%, sparking hopes for continued improvements and generating increased activity in the capital markets.

January saw a handful of tech and life sciences IPOs and follow-on offerings that performed well. When asked about their feelings on investment opportunities broadly, approximately half of tech (46%) and life sciences (52%) investors have a positive outlook for their industry, reflecting optimism for companies that are looking to raise a private investment in the down market.

The Growing Importance of ESG

Companies looking ahead should also note that investors are paying more attention to environmental, social and governance (ESG) factors in IPO valuations and investment decisions, with roughly half of tech (48%) and life sciences (50%) investors describing them as "very important," compared to one-third last year.

While tech executives are emphasizing ESG in their operations—60% report already implementing or having active plans to put such initiatives in place—their counterparts in life sciences aren't as focused on it: Only 44% rank ESG as a very high priority. The closed market window gives companies an opportunity to build out their ESG programs in contemplation of going public down the road.

Key Findings

2024 is most likely for IPO market recovery, but some investors aren't counting out 2023.

- Sixty-four percent of tech and life sciences investors project the IPO market will rebound in 2024. Still, more than a quarter of investors in both tech and life sciences hold out hope for a turnaround in 2023.
- Executives are more reserved in their outlook. Just 8% of tech executives project their company will conduct an IPO in the next six months, and none of the surveyed life sciences executives expect an exit in the same time frame.
- Roughly half of tech (46%) and life sciences (52%) investors express optimism for investment opportunities in 2023.

Executives consider private financing, M&A transactions and cost-cutting measures as alternative or supplemental strategies to an IPO.

- Tech executives rank private financing (75%), cost-cutting exercises (42%) and an M&A transaction (32%) as their most likely alternatives or supplements to raising capital through an IPO.
- Life sciences executives rank cost-cutting exercises (54%) and private financing (42%) as their top alternatives or supplements.

ESG is increasingly important to both investors and executives.

- Seventy-eight percent of tech investors and 76% of life sciences investors say ESG is at least moderately important in IPO valuations and investment decisions.
- Sixty percent of tech executives have implemented ESG initiatives or have a plan in place for implementation. Just 44% of life sciences executives have done the same, with another 28% considering such a program.

Market Perspectives: Timelines and Opportunities in 2023 and Beyond

Technology

After a challenging 2022, investors are tempering their expectations for tech sector IPOs in the immediate future, instead reserving more hope for 2024. About one-quarter of surveyed investors predict a rebound in IPO activity by the end of 2023, whereas 64% anticipate a recovery sometime in 2024. This aligns with conservative projections among tech executives, of whom just over one in five (21%) are considering an IPO in the next 12 months.

In fact, almost two-thirds of these executives had no sense of when or if their company would conduct an IPO, with 40% unsure of when they would go public and 23% planning to forego the process altogether.

Yet despite these hesitations, investors are finding room for optimism about near-term opportunities in the sector. When asked about their feelings on tech investment opportunities broadly, investors had a more positive outlook, with nearly half showing at least some degree of optimism about 2023. Indeed, as inflation cools and growth stocks have had a strong start this year, some bullish bankers are pushing for faster IPO timelines.

"When the IPO market is performing poorly, investors will take a longer look at financing opportunities with strong private companies at reduced valuations," said capital markets partner Robert Freedman. "Even still, as signals improve, many are starting to feel more confident about the IPO potential this year."

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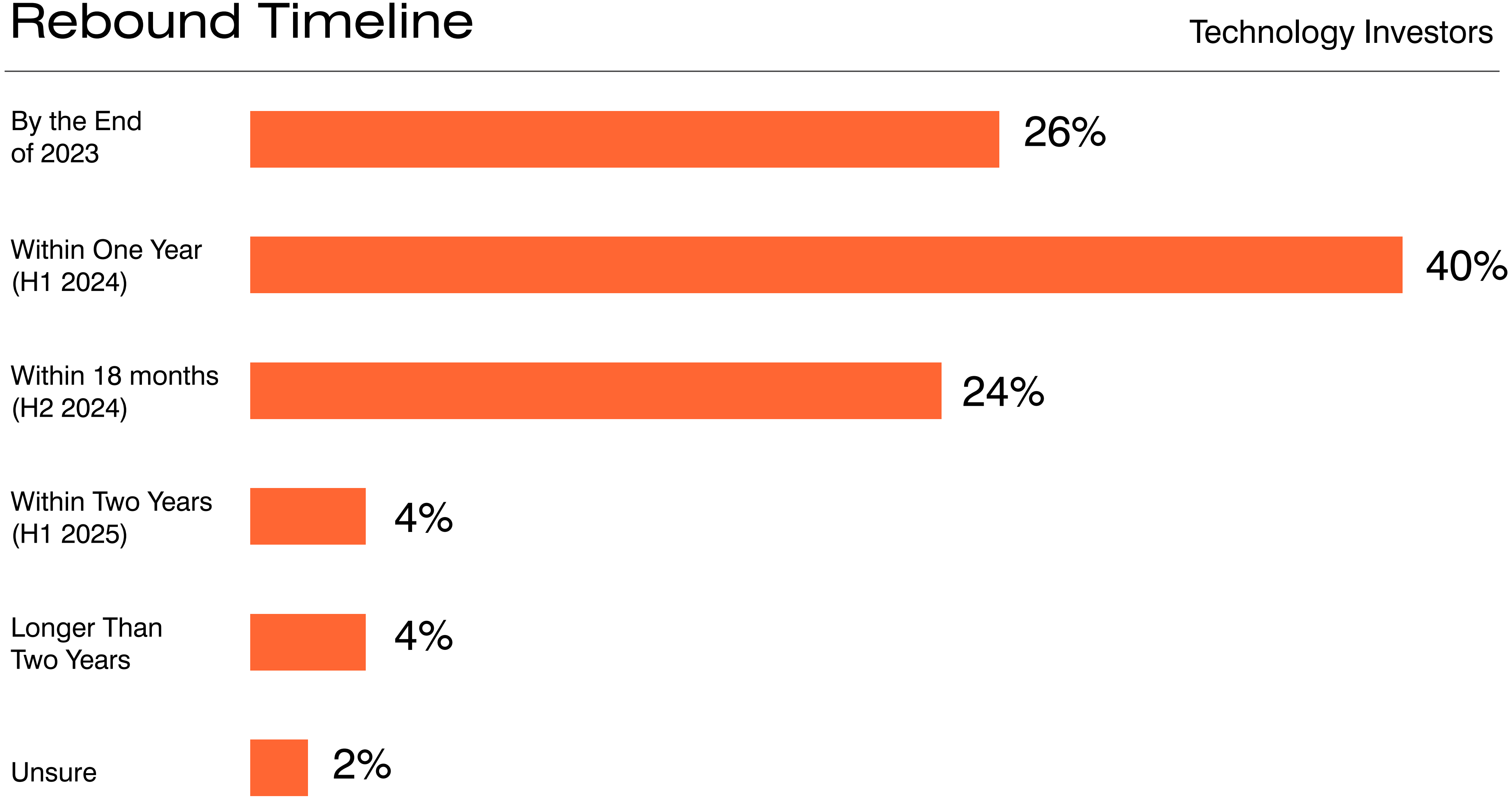
>
> Robert Freedman, Partner

Most Anticipate a Tech IPO Market Rebound in 2024; Some Investors Won't Count Out 2023

[Asked to tech investors only]
What is your projected timeline for technology IPO activity to rebound?

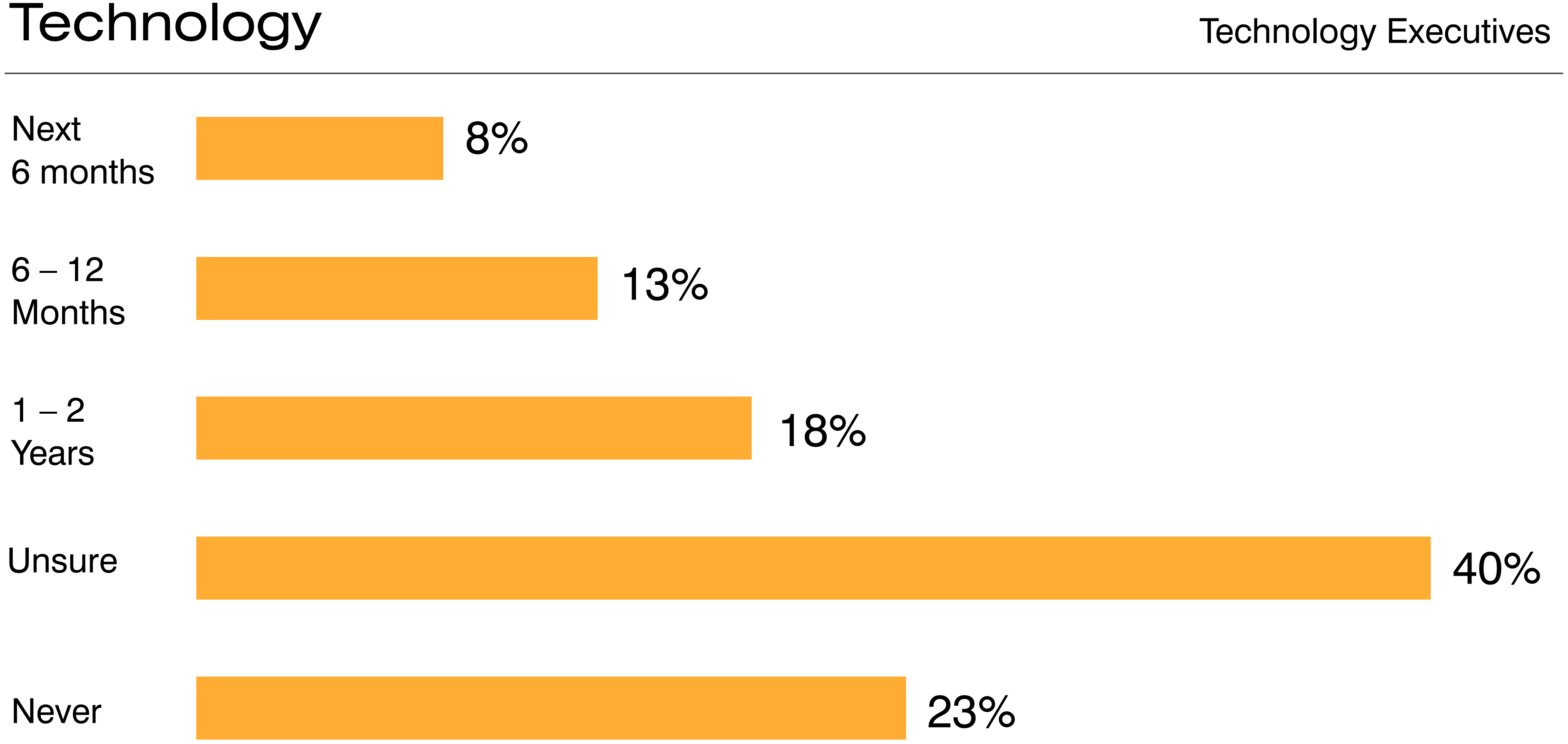
Technology IPO Rebound Timeline



Most Anticipate a Tech IPO Market Rebound in 2024; Some Investors Won't Count Out 2023 continued

[Asked to tech executives who have NOT conducted an IPO: 40 of 50 companies] What is your organization's projected IPO timing?

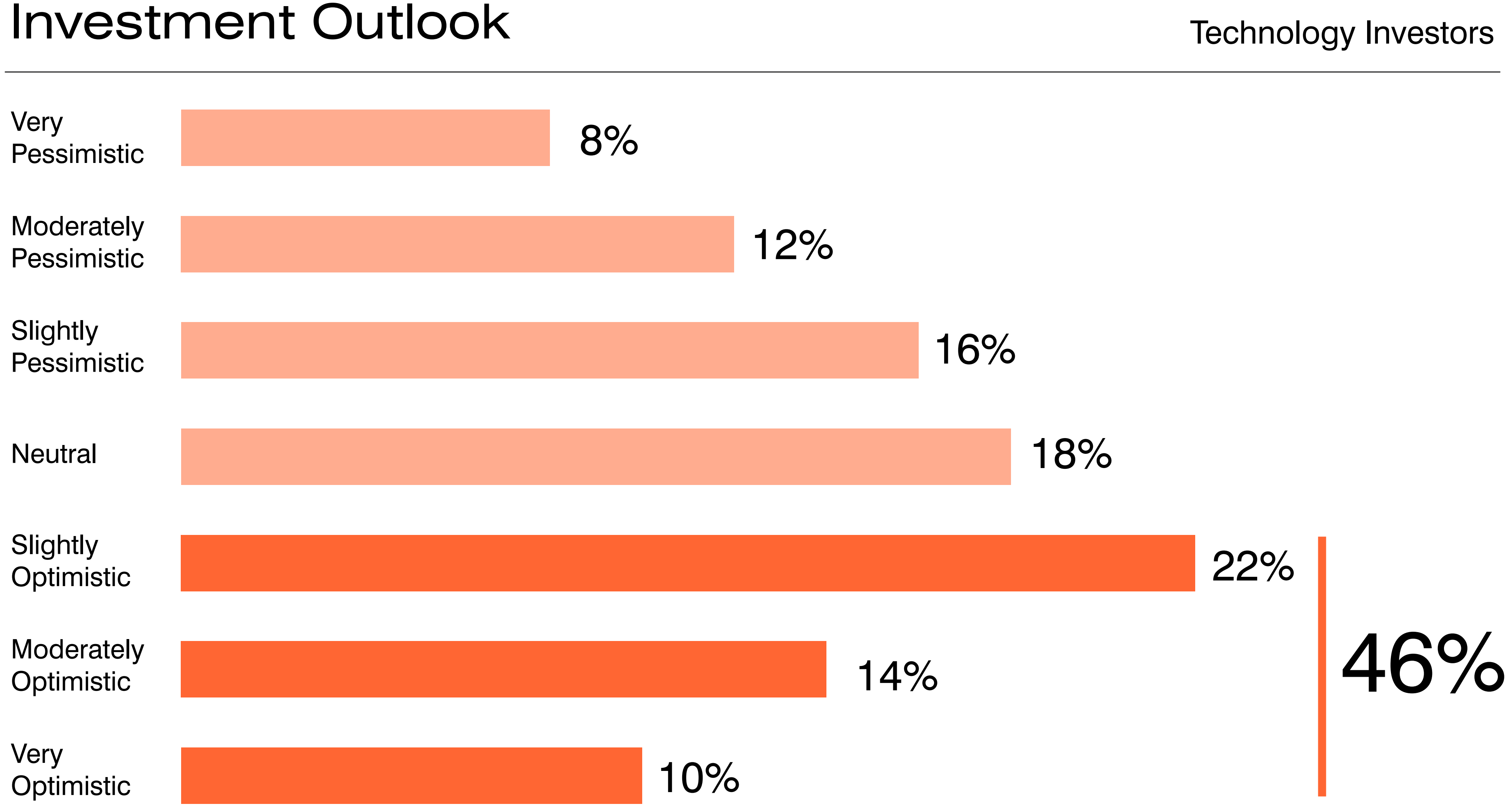
Projected IPO Timing—Technology



Most Anticipate a Tech IPO Market Rebound in 2024; Some Investors Won't Count Out 2023 continued

[Asked to tech investors only]
Which of the following best describes how you feel about technology investment opportunities in 2023?

2023 Technology Investment Outlook



> Investors are looking for robust clinical data that signals strong potential, alongside a proven management team that can see the drug through development.

Amanda Rose, Partner

Life Sciences

Though a slight majority (52%) of life sciences investors express positive feelings about the investment landscape broadly in 2023, a large share of respondents (64%) still expects the IPO market to recover in 2024. However, there is a notable contingent of more optimistic life sciences investors (28%) who are predicting a quicker turnaround, with recovery before the end of this calendar year.

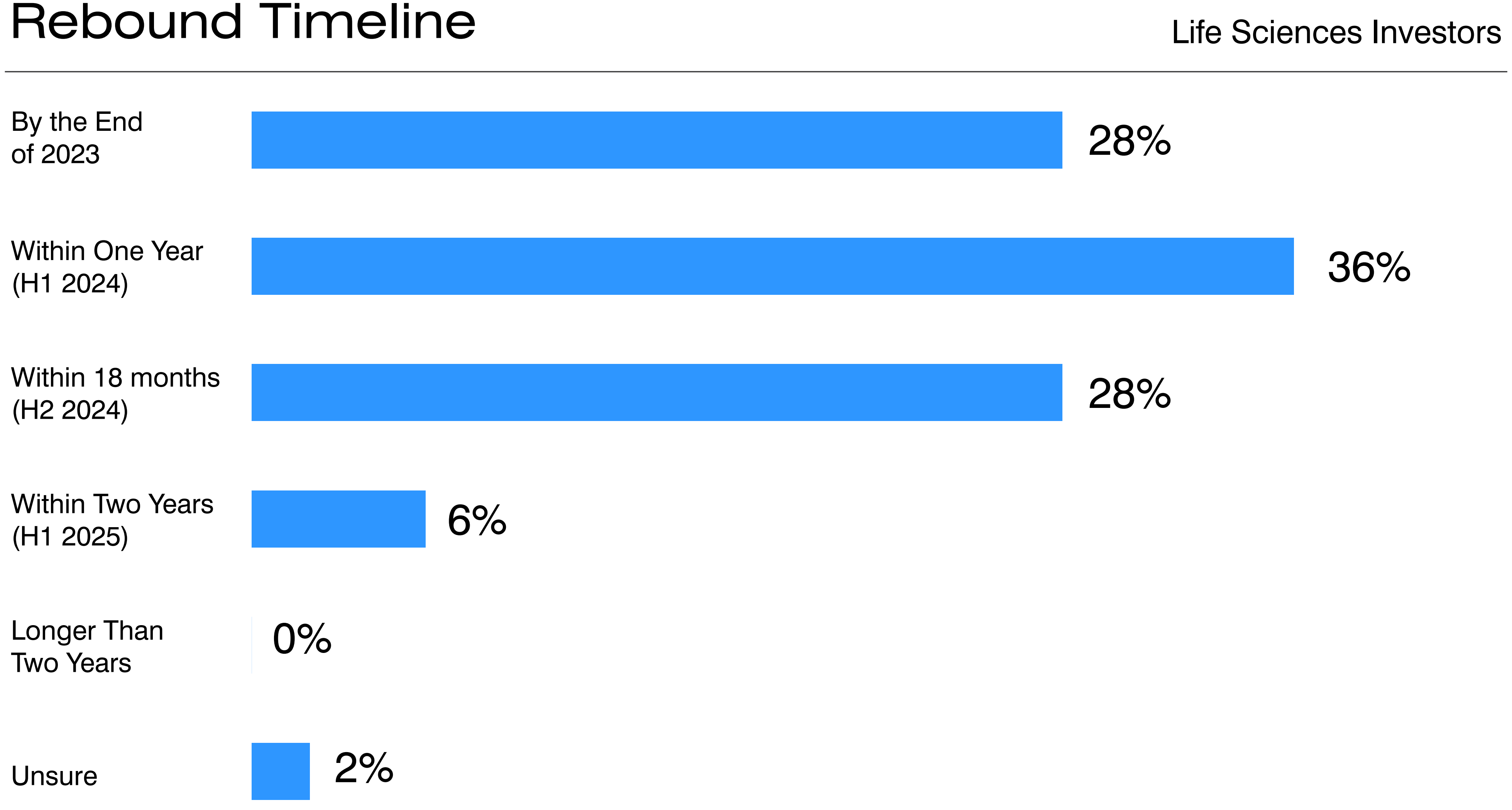
Industry executives appear less hopeful about a market reversal than investors and their counterparts in tech. Of the 46% of life sciences executives considering an IPO, just 4% are projecting to go public in the next 12 months. Slightly less than half (47%) are unsure of their timeline, and 31% say they are never planning to go public.

Even after the inevitable recovery, Fenwick partner Amanda Rose, a leader in life sciences and capital markets, expects the future of IPOs to be different: "During the recent height, companies were going public based on interesting science. Those days are largely over. Investors are looking for robust clinical data that signals strong potential, alongside a proven management team that can see the drug through development."

Life Sciences IPO Rebound Anticipated in 2024; Investors Maintain Some Optimism for 2023

[Asked to LS investors only] What is your projected timeline for life sciences IPO activity to rebound?

Life Sciences IPO Rebound Timeline

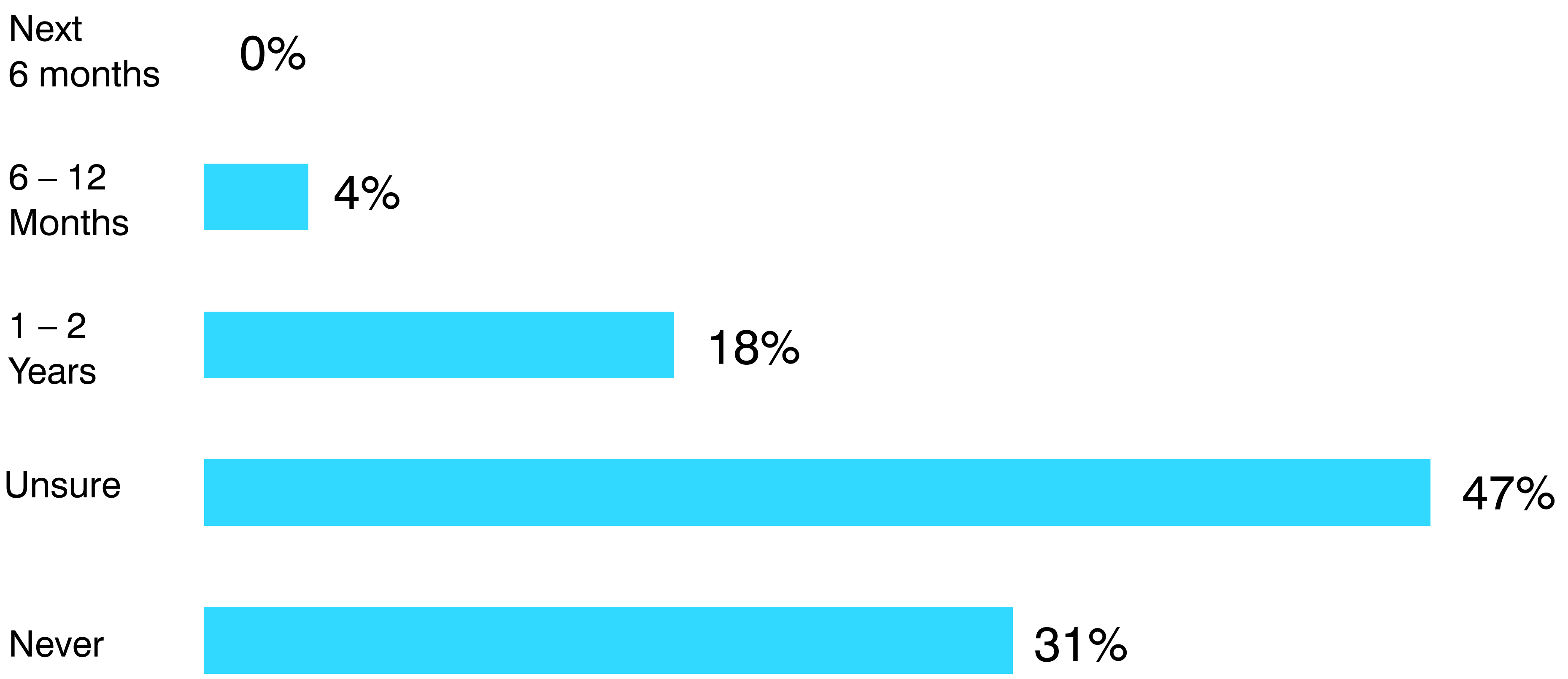


Life Sciences IPO Rebound Anticipated in 2024; Investors Maintain Some Optimism for 2023 continued

[Asked to LS executives who have NOT conducted an IPO: 45 of 50 companies] What is your organization's projected IPO timing?

Projected IPO Timing—Life Sciences

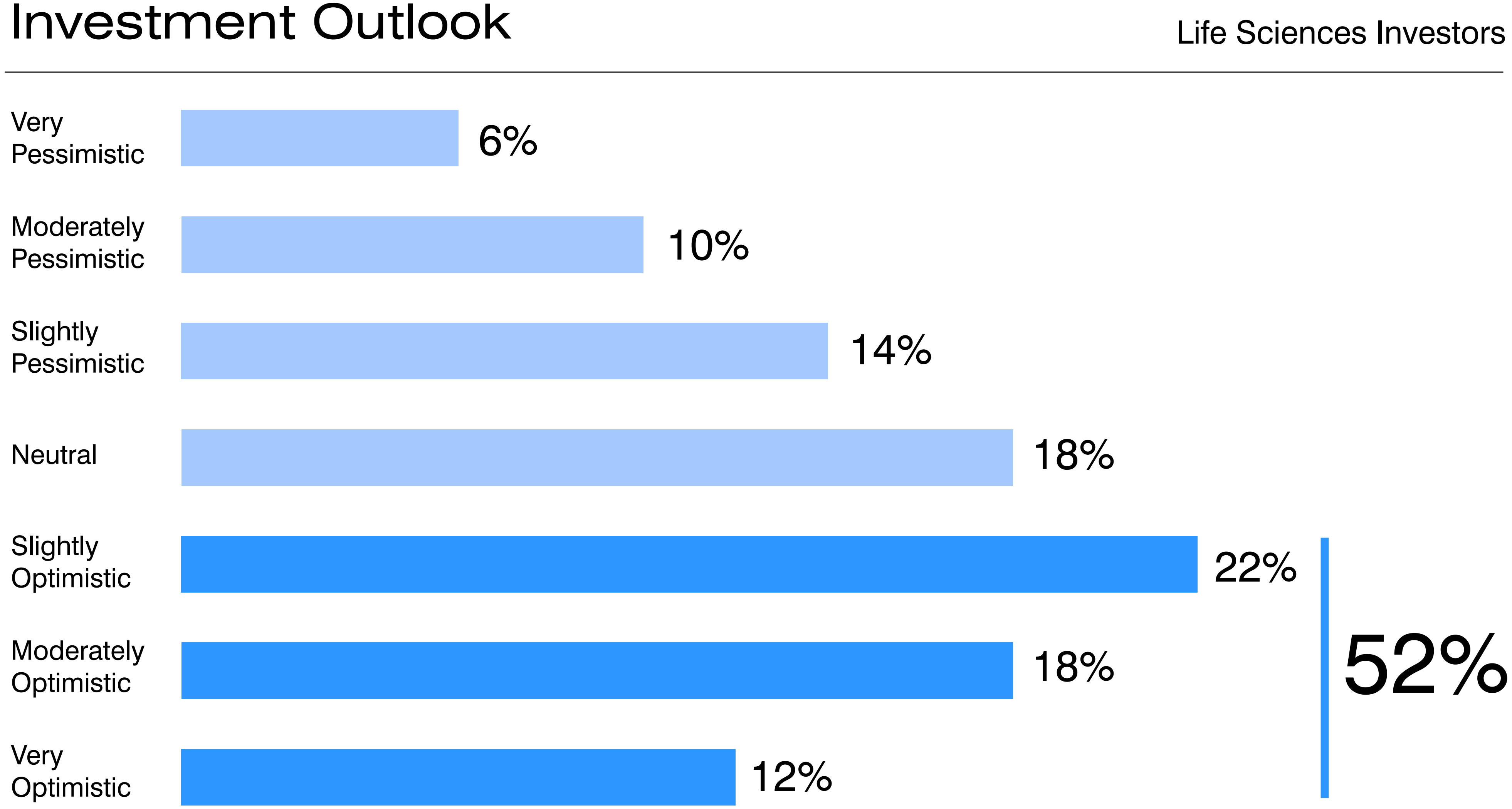
Life Sciences Executives



Life Sciences IPO Rebound Anticipated in 2024; Investors Maintain Some Optimism for 2023 continued

**[Asked to LS investors only]
Which of the following best describes how you feel about life sciences investment opportunities in 2023?**

2023 Life Sciences Investment Outlook



Getting IPO Ready: Guidance for Late-Stage Private Companies

Getting IPO Ready

For companies planning to go public in 2024, their focus this year is on adapting to a new economic environment and shoring up their balance sheet, including aligning costs and expenses, while continuing to ready for a public debut or other exit. Many of the steps to prepare to go public take advance preparation, starting a year or two before the target date. Companies considering going public in the next two years should begin to consider the following:

1. **Engage with investors and compile relevant data.**
   Companies that engage with investors now will be top of mind when market conditions change. Executives should focus on the metrics investors find most valuable and begin to track and report on them internally so that they'll support the company's story when publicly disclosed.

2. **Implement financial reporting systems and tools.**
   A newly public company will have to adapt to different reporting requirements, additional stakeholders and a range of new procedures. In addition to audits of the past two years, this may necessitate new software and other technologies than those used by private companies that don't need to prepare SEC filings and quarterly financial statements. Executive teams should implement and adjust to these systems in advance of the IPO.

3. **Educate employees about equity compensation.**
   Before going public, it's important to carefully plan equity grants, including ensuring grants are based on a current 409A valuation of the company's common stock. It's also helpful to communicate with employees about equity compensation, the potential for stock price volatility, what happens when IPO lockups release, the effects of pre-IPO stock splits and different equity vehicles.

Getting IPO Ready

continued

4. **Supplement the board of directors.**
   Companies need to determine the composition of their boards of directors, including establishing board committees, months before a going-public transaction. Ideally, companies should aim for a diversity of expertise and backgrounds, create a skills matrix to ensure key needs are fulfilled and have a board that complies with public company requirements.

5. **Fill key management positions.**
   Prior to going public, key management positions should be filled, such as the chief financial officer, along with investor relations and human resources professionals. The finance team should also be fully staffed, ideally with individuals with public company experience. These positions are heavily relied upon during the IPO and after as a public company.

6. **Develop governance structures and policies.**
   The pre-IPO period is an important time to draft and adopt corporate policies, with a special focus on those related to the company’s current operations. For example, organizations with international operations will need an export controls policy, while companies with payment processing or fintech functions should have an anti-money-laundering policy.

These are just a few of the many steps companies need to take to prepare for life as a public company. For additional information, Fenwick offers a step-by-step checklist and guide to help companies prepare for going public, as well as webinars and other resources featuring insights about the best ways to ensure a successful going-public transaction.

Bridging the Gap: Funding and Other Considerations for Late-Stage Companies

Bridging the Gap

While some tech and life sciences executives are using this year to prepare to go public, companies that didn't "top off" their funding before the downturn began may be looking at a down round of venture capital funding—selling shares at a lower price than in the prior round—or alternative financing options to extend their runway until the markets open up.

For many companies, an exit via M&A is on the table. Tech and life sciences M&A activity may pick up as public company stock begins to rebound and valuations for private companies reset downward. Company leaders are also considering other funding options, as well as looking to implement or already undergoing cost-cutting measures to better align with the current climate and extend their financing as much as possible.

> M&A activity may pick up as public company stock begins to rebound and valuations for private companies reset downward.

Technology

Additional private financing is overwhelmingly the most popular IPO alternative for tech executives, with 75% considering this in lieu of an IPO. Mergers and acquisitions and debt financing (either private or from a bank) were less popular, selected by 32% and 28% of these respondents, respectively. Signaling that the SPAC market has cooled drastically from its 2021 frenzy, only 10% of tech executives say they would consider one as an IPO alternative.

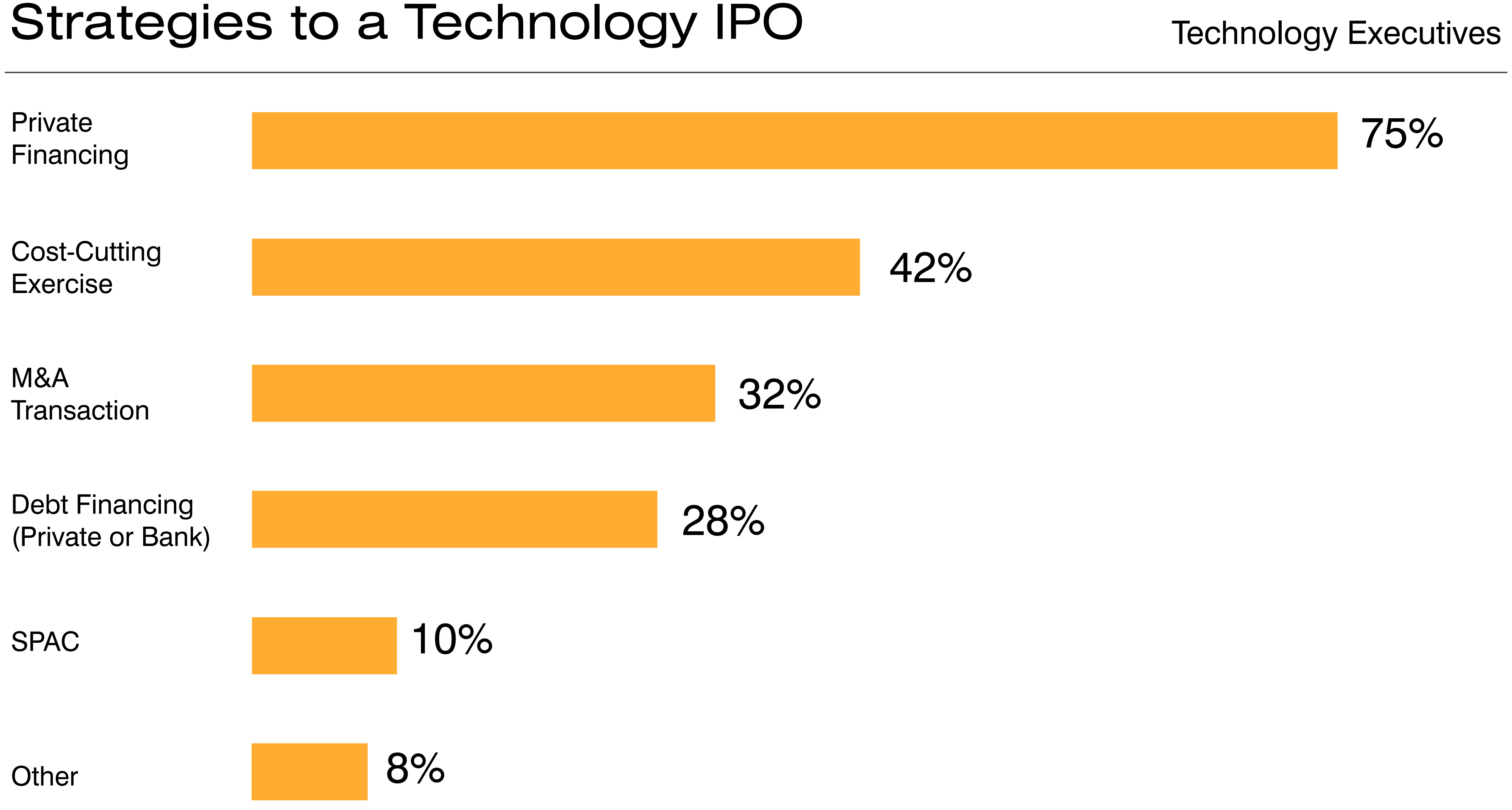
In addition, cost cutting is a frequently considered option for many companies (42%). “As we’ve seen with the recent headline-grabbing tech sector layoffs, executives are under pressure from their boards and existing investors to reduce their budgets, preserve capital and show meaningful progress toward profitability,” said Ben-Tzur. “I expect to see more cost-cutting measures in the year ahead.”

Additional private financing is overwhelmingly the most popular IPO alternative for tech executives.

Tech Executives Focus on Private Financing as an Exit Alternative

[Asked to tech executives who have NOT conducted an IPO: 40 of 50 companies] What are some strategies that you would consider in place of or supplemental to a tech IPO?

Alternative / Supplemental Strategies to a Technology IPO



Life Sciences

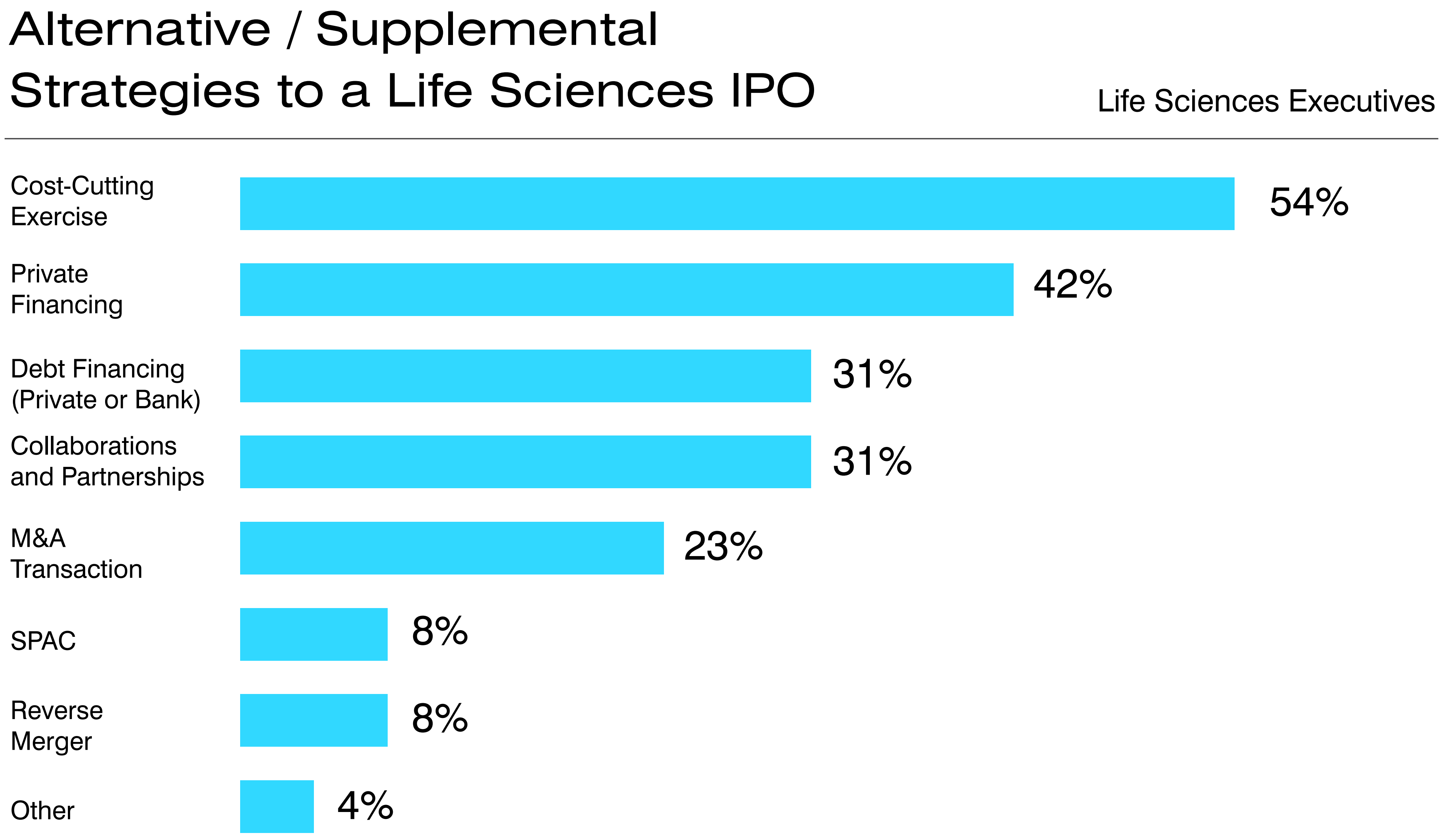
For life sciences companies, where research and development can lock up much of their operating budgets, cost cutting is a preferred strategy for 54% of respondents. These budget reductions often entail narrowing the focus to the most promising products in their pipeline.

Private financing is the most-selected alternative to an IPO among life sciences executives, with 42% considering it. Debt financing and collaborations and partnerships, such as the recently announced Belharra Therapeutics and Genentech collaboration focusing on small-molecule medicines, are slightly behind. “In this environment, many companies are looking at partnering promising drug candidates. The upfront payment extends runway for internal development, while allowing continued development of the partnered program and potential additional future capital,” said Rose.

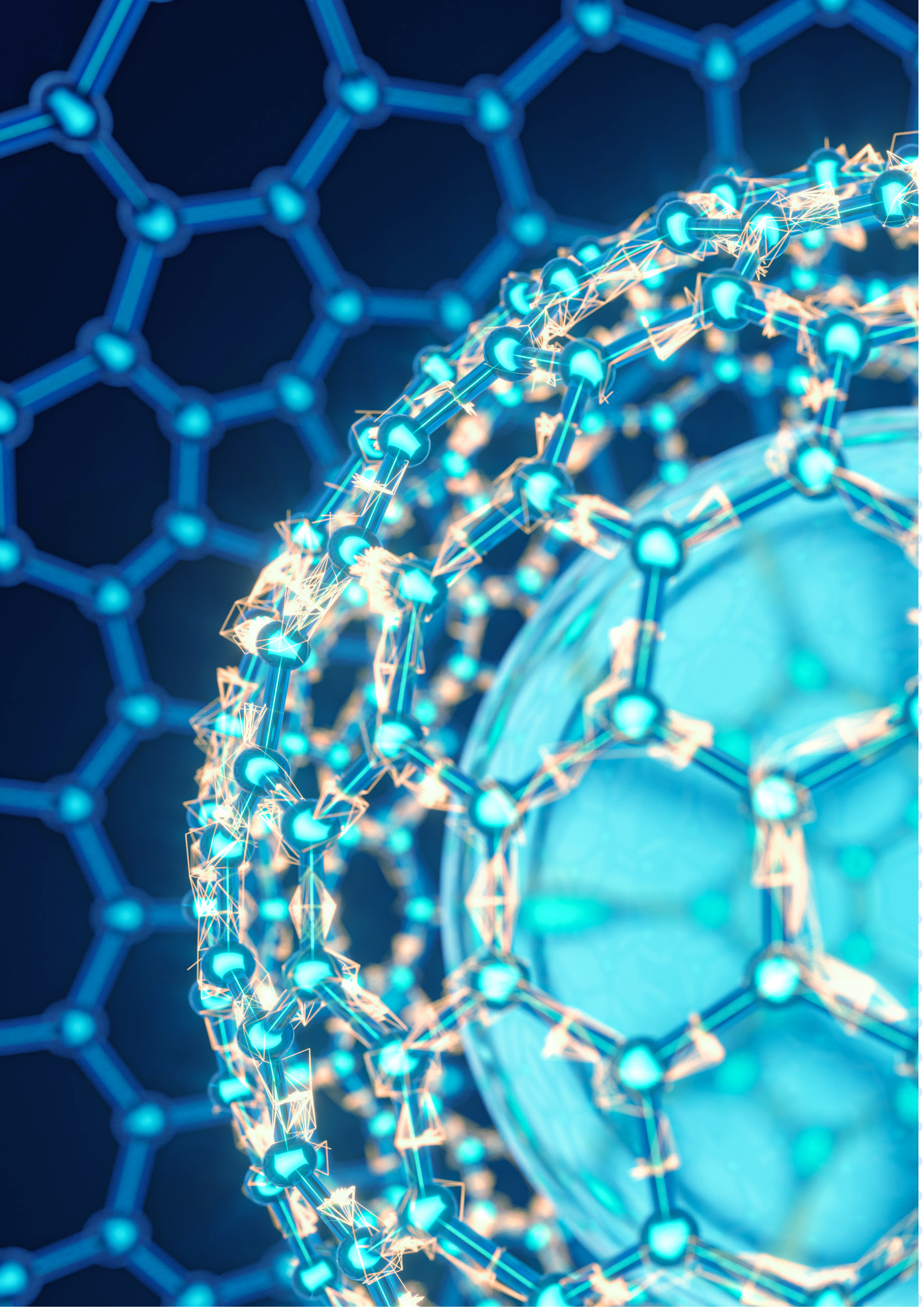
> In this environment, many companies are looking at partnering promising drug candidates
>
> Amanda Rose, Partner

Life Sciences Executives Turn to Cost-Cutting and Private Financing Strategies

[Asked to LS executives who have NOT conducted an IPO: 45 of 50 companies] What are some strategies that you would consider in place of or supplemental to a life sciences IPO?



ESG Spotlight



ESG Spotlight

ESG issues are more important than ever for investors and executives in tech and life sciences, despite the economic slowdown, political divisiveness and evolving guidelines and regulation around ESG initiatives. More than 75% of investors surveyed, for instance, rate ESG as at least moderately important in valuations and investment decisions. Moreover, regulations are on their way, with a number of SEC rules relating to ESG disclosures around climate and cybersecurity issues expected to be adopted in the first half of 2023.

"While new regulatory requirements will certainly accelerate the need for ESG initiatives and disclosures, investors are also driving the ESG discussion forward and putting pressure on companies to develop and report on their ESG initiatives independent of regulatory requirements," said Fenwick counsel Ron Llewellyn, who frequently advises public and late-stage private companies on a range of ESG and other corporate governance issues. "The nature of these demands will vary for companies, depending on the types of ESG issues that are most relevant to their investors and industries."

Executives are listening. Last year, only 29% of tech executives surveyed in Fenwick's 2022 Going Public Report placed a very high priority on ESG. This year, despite economic headwinds shifting their attention to other pressing concerns, it appears they are increasing their focus on ESG initiatives in response to shifting investor sentiment—60% of tech executives place a very high priority on ESG and have either implemented initiatives or have a plan to do so. Another 36% rate it a somewhat high priority and say they have considered such efforts.

ESG Spotlight

continued

In 2022, just 30% of life sciences executives said they already or actively planned to implement ESG initiatives. This year, that number has risen to 44%, and another 28% of surveyed executives report considering implementing ESG initiatives.

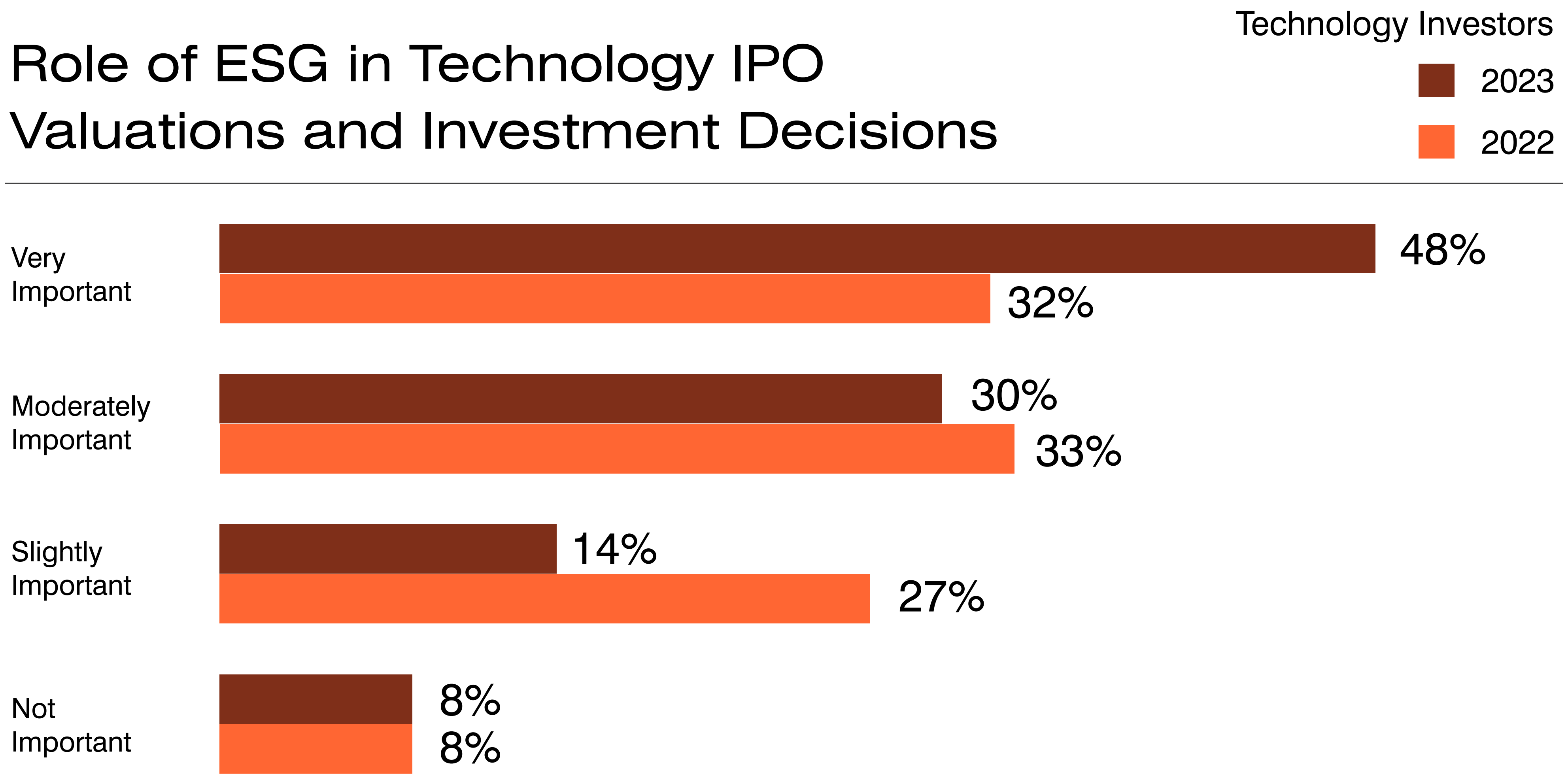
As our 2022 Fenwick Evolution of ESG Disclosure Report explains, ESG disclosures among public biotech companies jumped from 22% to 60% between 2021 and 2022. Yet the lack of consensus on where and what to report poses a challenge for executives, who may also need to contend with impending regulations like the SEC's proposed disclosure rules around climate-related risks and opportunities.

"Regardless of what happens with SEC regulations—which are likely to face legal challenges—we are likely to continue to see private ordering of ESG standards and best practices," said Llewellyn. "ESG, as a tool for evaluating risks and opportunities, has become part of running a well-managed company. Its broad support from investors means it can't be ignored."

ESG in Focus

[Asked to tech investors only] Which best summarizes the importance ESG plays in technology IPO valuations and investment decisions?

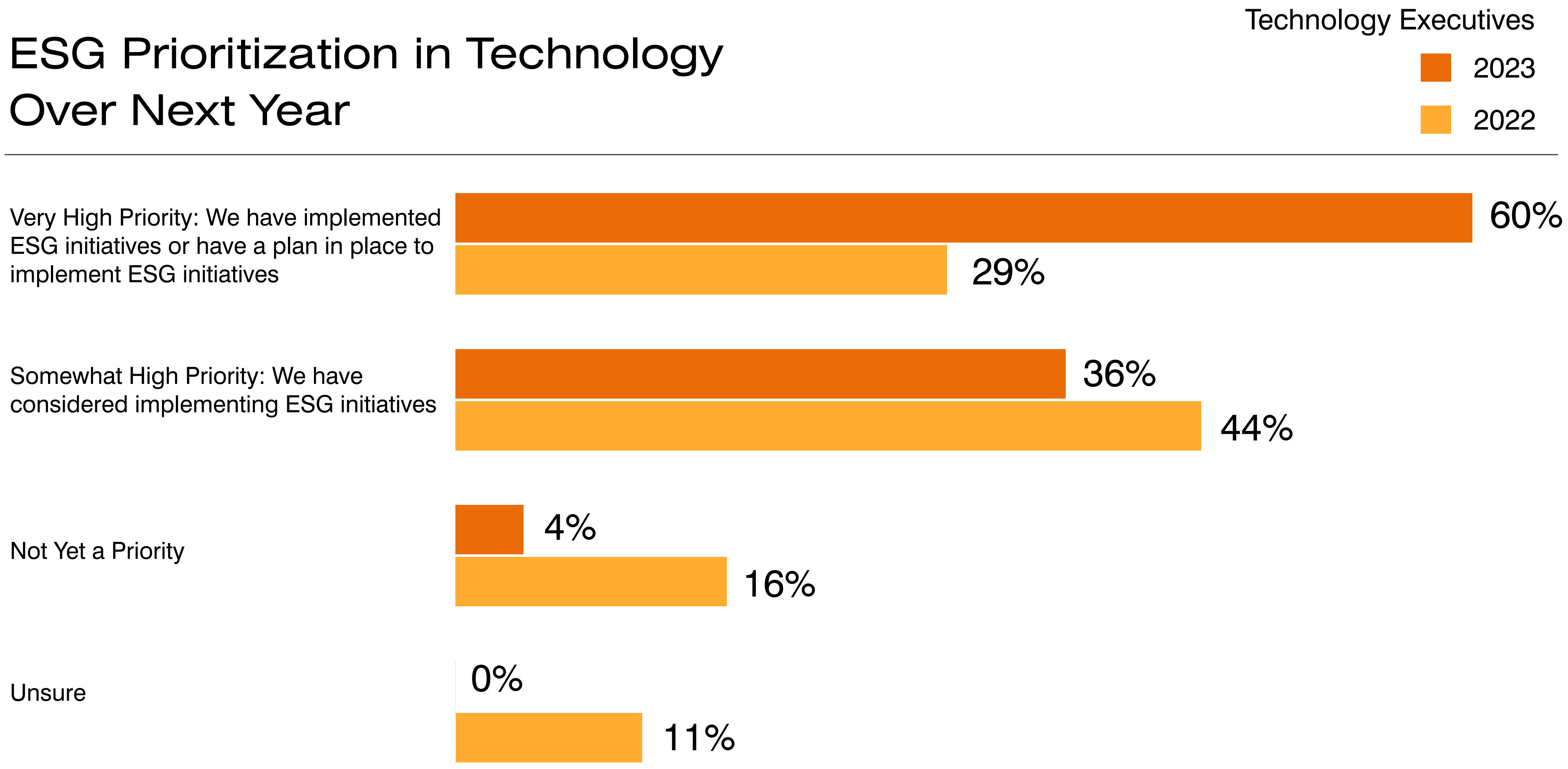
Role of ESG in Technology IPO Valuations and Investment Decisions



ESG in Focus

continued

[Asked to tech executives only] Which best summarizes the extent to which your organization is prioritizing ESG initiatives for 2023?

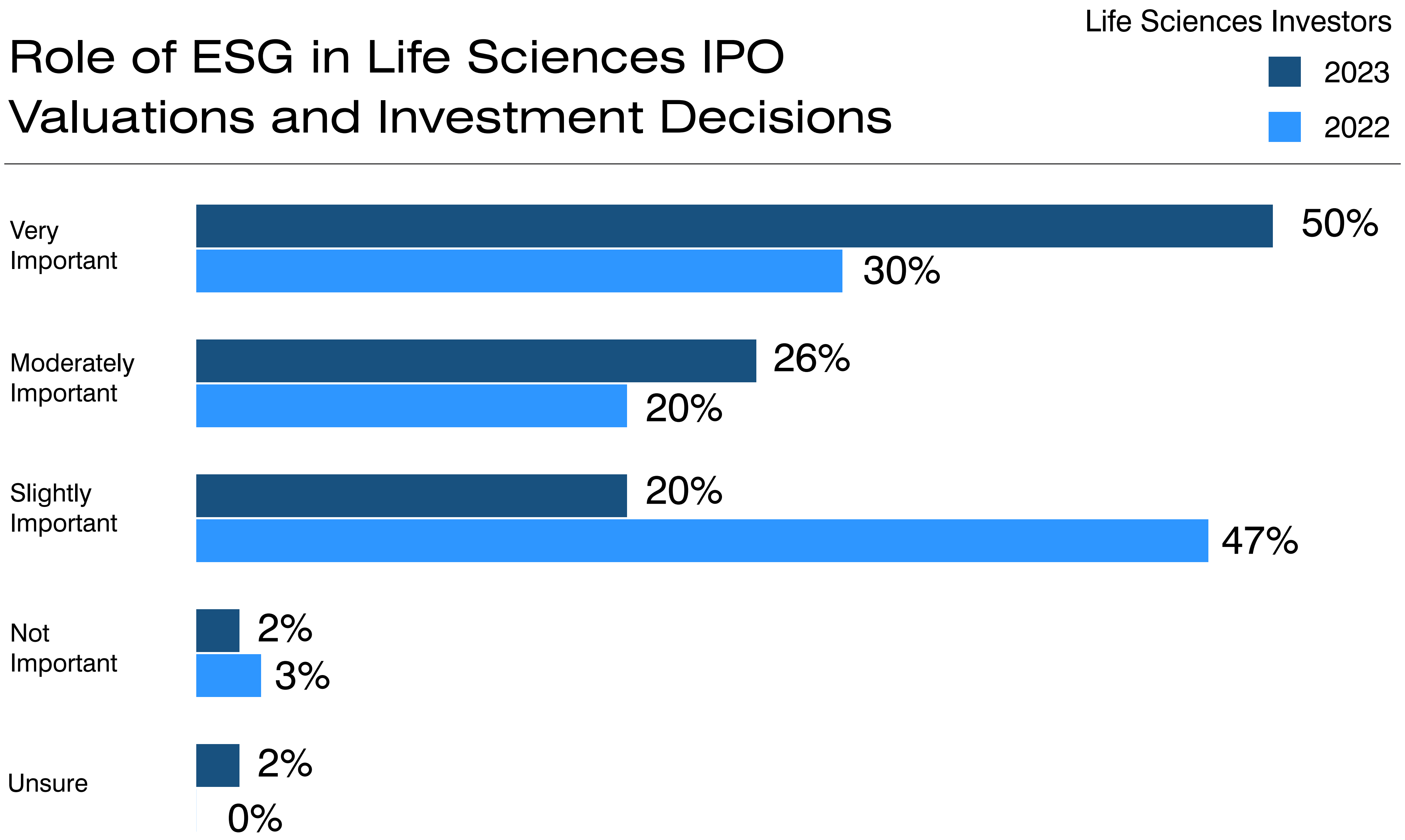


ESG in Focus

continued

[Asked to LS investors only] Which best summarizes the importance ESG plays in life sciences IPO valuations and investment decisions?

Role of ESG in Life Sciences IPO Valuations and Investment Decisions



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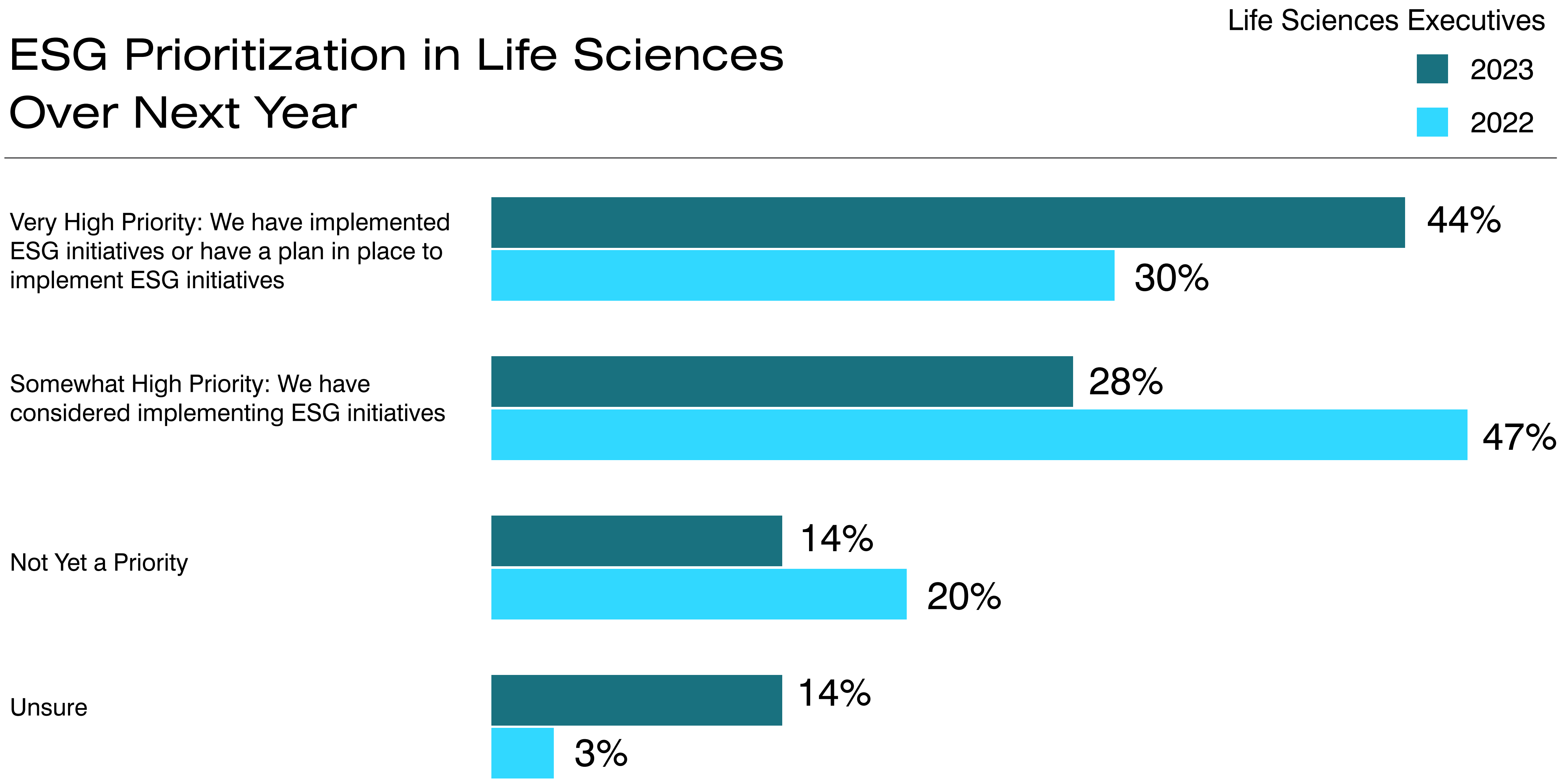
[Asked to LS executives only] Which best summarizes the extent to which your organization is prioritizing ESG initiatives for 2023?

ESG Prioritization in Life Sciences Over Next Year



Conclusion

While no one can say for certain when the IPO market will rebound, what's clear is that 2023 can be a valuable opportunity for executives and investors to continue to plan and prepare for when the window reopens.

For those seeking guidance on best practices, pre-IPO checklists and more, Fenwick lawyers offer experienced insights and counsel on all aspects of these transactions.

About Fenwick's Capital Markets Group

Fenwick takes leading technology and life sciences companies public. We advise clients on traditional IPOs, as well as other innovative public offering structures, including de-SPAC transactions, direct listings and reverse mergers. Our team represents investor-backed startups and high-growth companies, as well as high-profile public companies, and works closely with many of the most active investment banking firms.

The firm led the market in direct listings launched in 2021, recognized as No. 1 issuer-side in direct listings in 2021 by deal count, according to *Deal Point Data*.

Fenwick's team was named a Capital Markets Group of the Year by *Law360* in 2021, and *Chambers USA* named Fenwick as being among California's leading firms for capital markets.

Additional Fenwick Resources

- IPO and Direct Listing Planning Checklist
- The Evolution of ESG Disclosure for Biotech Companies: An Analysis and Guide
- 2022 Corporate Governance Practices and Trends in Silicon Valley and at Large Companies Nationwide
- ESG in Silicon Valley: A Look at the ESG Disclosure Practices of the SV150

Additional Related Partner Resources

Corporate Governance

Dave Bell

Mergers and Acquisitions

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Ken Myers

Employment

Sheeva Ghassemi

Startup and Venture Capital

Dawn Belt

Ian Goldstein

Methodology

Fenwick conducted an online survey of 200 U.S.-based professionals involved in technology and life sciences investment in January 2023. These included technology executives (50), life sciences executives (50) and investors in technology and life sciences (100). Of the technology and life sciences executives, more than one-third held C-suite titles, and their company's size ranged from less than 100 to over 5,000 employees. Those categorized as investors worked in investment banking, private equity, venture capital and hedge fund investing. Respondents represented 37 states. Participation was anonymous, and data was analyzed in the aggregate.

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