



ASIC

Australian Securities & Investments Commission

Annual general meeting season 2017

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Report 564

About this report

This report provides an overview of the annual general meeting season in 2017 for S&P/ASX 200 listed entities. It sets out some key observations and related good governance recommendations.

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Consultation papers: seek feedback from stakeholders on matters ASIC is considering, such as proposed relief or proposed regulatory guidance.

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- explaining how ASIC interprets the law
- describing the principles underlying ASIC's approach
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Examples in this report are purely for illustration; they are not exhaustive and are not intended to impose or imply particular rules or requirements.

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About this report

Most listed companies hold their annual general meetings (AGMs) during October and November. We actively monitor AGMs held around this time to:

- identify emerging trends and corporate governance issues
- observe the extent to which AGMs are used by companies as a forum to meaningfully engage with their members.

These observations inform our ongoing regulatory work in corporate governance.

This report provides an overview of some of the key trends observed for AGMs held by S&P/ASX 200 (ASX 200) listed entities between 1 October 2017 and 31 December 2017. It also sets out some of our good practice recommendations.

This report is not a comprehensive statement of all of our views on the topics discussed. Some of these topics (including proxy advisers) will likely be the subject of further reports or communications.

'... there is real value in the annual grilling of boards by their shareholders and it comes from the disciplined thinking that occurs well before directors front their shareholders.'

– Australian Institute of Company Directors, 'AGM Season Heats Up', December 2017

'The annual general meeting is an opportunity for the board of a company to communicate directly with its shareholders. It is often seen by shareholders as one of the few chances they have to meaningfully hold the board and management to account. The information provided to shareholders as part of the AGM is critical to their assessment of the company's business strategies and future prospects.'

– Cathie Armour, Commissioner, ASIC, 'Pointers for the AGM season', August 2016

Summary of key findings

Member dissent and engagement

The 2017 AGM season was significantly less tumultuous than the 2016 season in terms of the number of strikes achieved on remuneration reports. However, a strong sense of shareholder input and engagement was still evident from:

- changes to remuneration structures (resulting in fewer second strikes)
- an increase in the number of 'close calls' in relation to strikes on remuneration reports (attracting an 'against' vote of over 20%)
- greater director accountability through material 'against' votes for the election of directors or withdrawal of nominations.

Proxy advisers

Proxy advisers continued to attract significant media and corporate commentary. They continued to actively scrutinise companies' governance practices and issued a number of 'against' recommendations.

Diversity and ESG

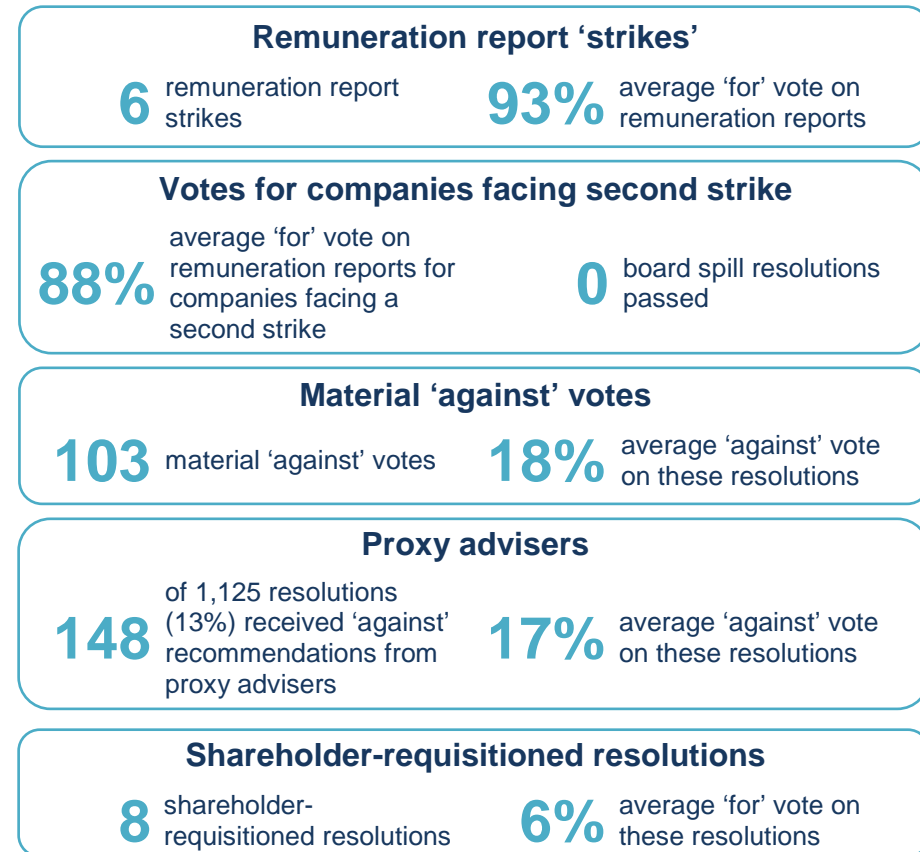
Gender diversity and specific environmental, social and governance (ESG) issues such as climate risk were a focus, with diversity issues resulting in 'against' recommendations and ESG issues generating shareholder-requisitioned resolutions.

Effectiveness of AGMs

While companies adopted some strategies to enhance meaningful engagement, widespread structural changes to AGMs (e.g. hybrid AGMs) were not widely adopted.

A relatively high number of ASX 200 companies continued to decide resolutions using a show of hands rather than by conducting a poll.

Figure 1: Summary of key findings



Note 1: Material 'against' votes are resolutions that received a vote of 10% or more against the resolution (excluding remuneration reports and shareholder-requisitioned resolutions). The average vote against these resolutions excludes resolutions on which voting was by show of hands.

Note 2: The 148 resolutions that received 'against' recommendations is the total number of resolutions put forward by boards of ASX 200 companies that received at least one 'against' recommendation from three major proxy advisers. In total, this affected 71 companies.

Note 3: Shareholder-requisitioned resolutions exclude resolutions for the election of a director.

Executive remuneration

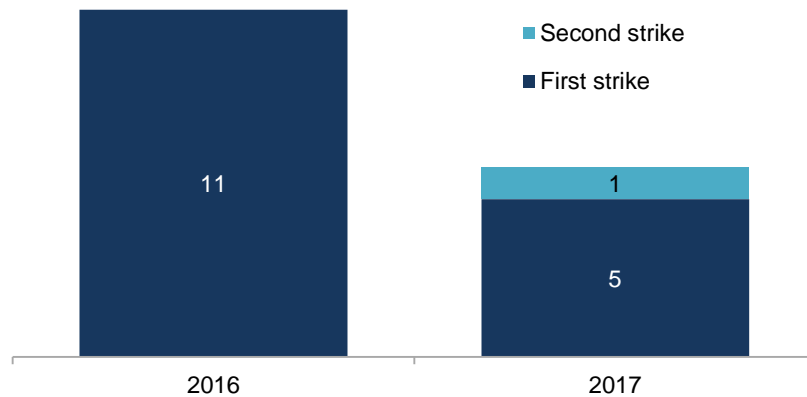
Remuneration strikes

We observed for ASX 200 companies:

- a significant decline in the number of first strikes on the remuneration report, from 11 in 2016 to five in 2017 (see Figure 2)
- only one of the 11 companies that received a first strike in 2016 received a second strike (see Figure 3)
- a sharp increase in companies receiving a close call ‘against’ vote of between 20–24%, from five in 2016 to nine in 2017 (see Figure 4)
- for nearly two-thirds of companies, voting results on remuneration reports in 2017 were consistent with 2016 (see Figure 5).

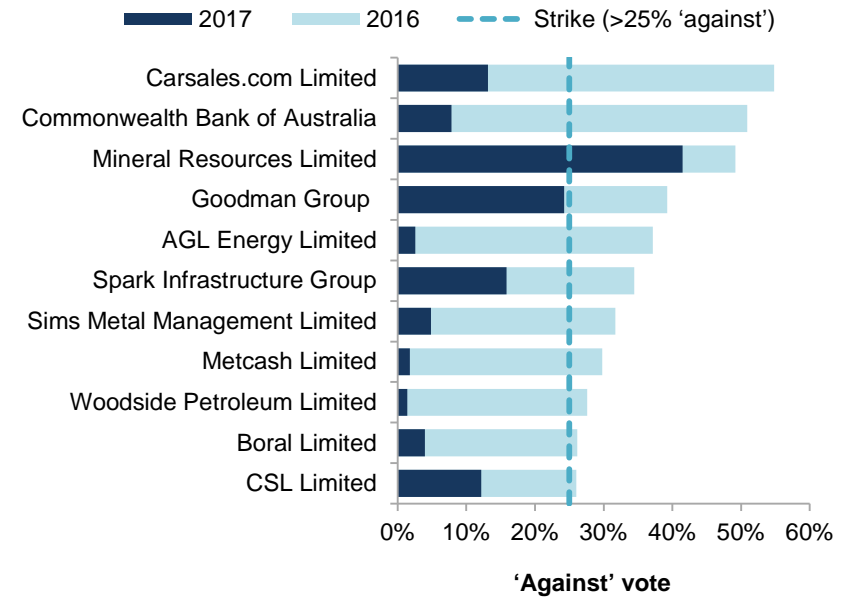
Note: A company receives a strike where its remuneration report receives a vote of 25% or more against.

Figure 2: ASX 200 companies that received remuneration strikes



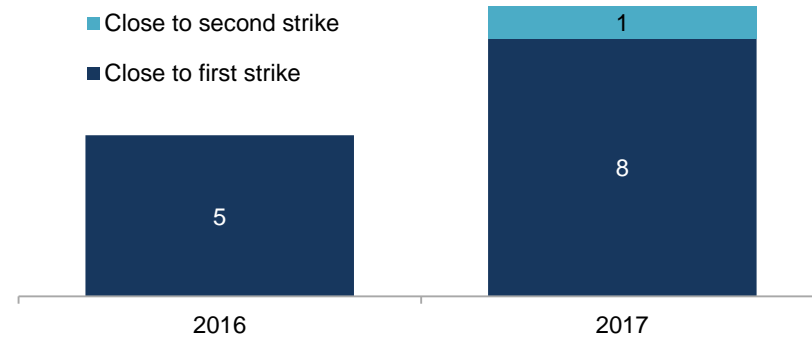
Note: See Table 2 in the appendix for data shown in this figure (accessible version).

Figure 3: ‘Against’ votes on the remuneration report in 2017 for ASX 200 companies that received a first strike in 2016



Note: See Table 3 in the appendix for data shown in this figure (accessible version).

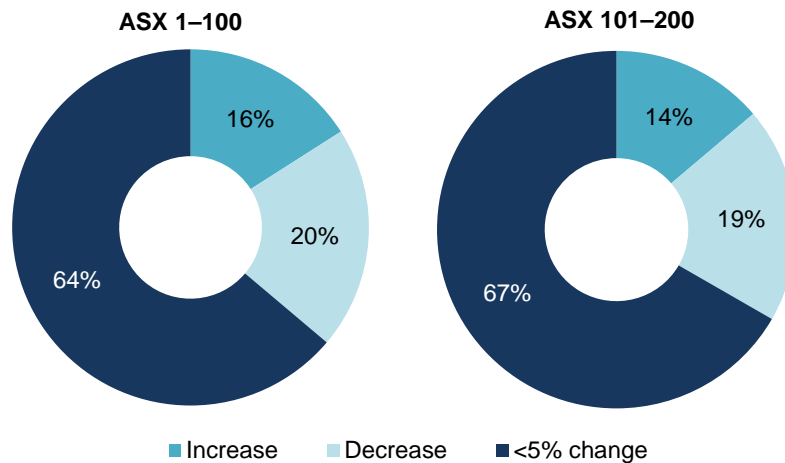
Figure 4: ASX 200 companies close to receiving remuneration strikes



Note: See Table 4 in the appendix for data shown in this figure (accessible version).

Figure 5 shows the change in 'for' votes on remuneration reports between 2016 and 2017 for all ASX 200 companies, showing whether the 'for' vote increased, decreased or remained largely the same (i.e. within 5% of the previous vote).

Figure 5: Change in 'for' votes on remuneration reports from 2016 to 2017 (ASX 1–100 and ASX 101–200)



Note: See Table 5 in the appendix for data shown in this figure (accessible version).

Remuneration practices

Commentary suggested that the key factors for the decline in the number of second strikes were companies:

- actively engaging with shareholders
- making changes to remuneration structures, reducing complexity and withholding bonus payments.

The reasons reported for companies receiving 'against' votes on their remuneration reports included:

- excessive quantum of pay (particularly having regard to performance)
- pay structure
- lack of transparency.

The use of non-financial targets also continued to be a focus, with some companies recognising them as drivers of company value and others reducing weighting on non-financial targets.

ASIC recommends

We recognise the important role played by incentive structures as a driver of conduct. We encourage all companies to:

- adopt incentive structures designed to achieve long-term company value, which may involve the use of non-financial targets
- ensure remuneration structures are sufficiently transparent to allow objective measurement of performance
- avoid unnecessary complexity in the design of their incentive structures and in the disclosure made in remuneration reports. This should assist shareholders to understand the bases on which performance-based payments are to be made (or have been made), including whether these payments are (or were) actually at risk.

Proxy advisers

ASIC roundtable

Each year, proxy advisers provide their clients, typically institutional investors, with reports containing recommendations on voting on particular company resolutions. We recognise the important role proxy advisers play in the market by assisting shareholders in making voting decisions and promoting focus on corporate governance issues.

The following analysis has been conducted using data voluntarily provided to us by three major proxy advisers.

Note: The data relating to the resolutions subject to an 'against' recommendation has been voluntarily provided by three major proxy advisers and has not been verified by ASIC.

'Against' recommendations

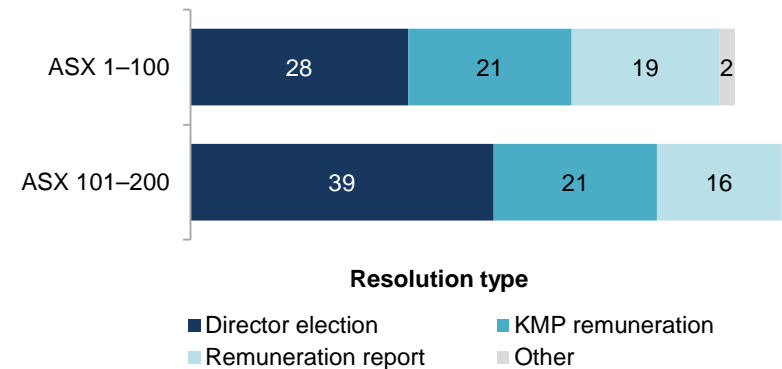
The following figures show the:

- type of resolutions that attracted 'against' recommendations issued by three major proxy advisers (see Figure 6 and Figure 7)
- voting outcomes for resolutions attracting these 'against' recommendations (see Figure 8).

The data in Figure 6 and Figure 7 indicates that the resolutions attracting 'against' recommendations from the proxy advisers included those relating to remuneration reports, director elections and key management personnel (KMP) remuneration, with remuneration reports receiving the greatest proportion of 'against' recommendations (as a percentage of resolution type).

Note: KMP remuneration includes resolutions relating to an increase in remuneration caps for non-executive directors and equity grants.

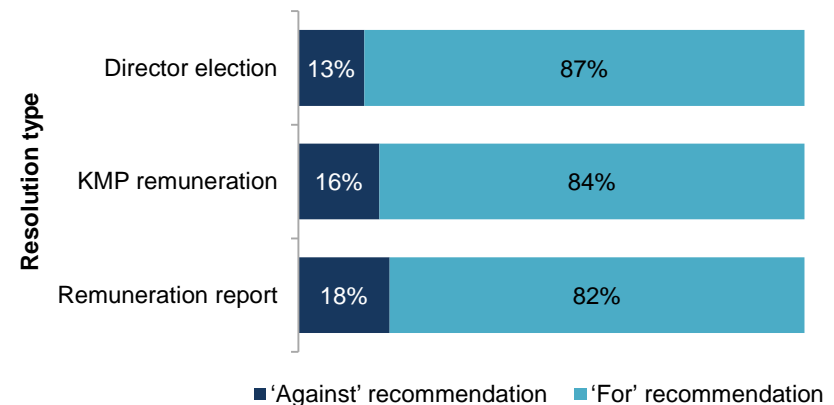
Figure 6: Number of resolutions that received 'against' recommendations by resolution type (ASX 200)



Note 1: Excludes shareholder-requisitioned resolutions. Where a resolution was subject to more than one 'against' recommendation, the resolution has only been counted once.

Note 2: See Table 6 in the appendix for data shown in this figure (accessible version).

Figure 7: Percentage of resolution types that received 'against' recommendations (ASX 200)

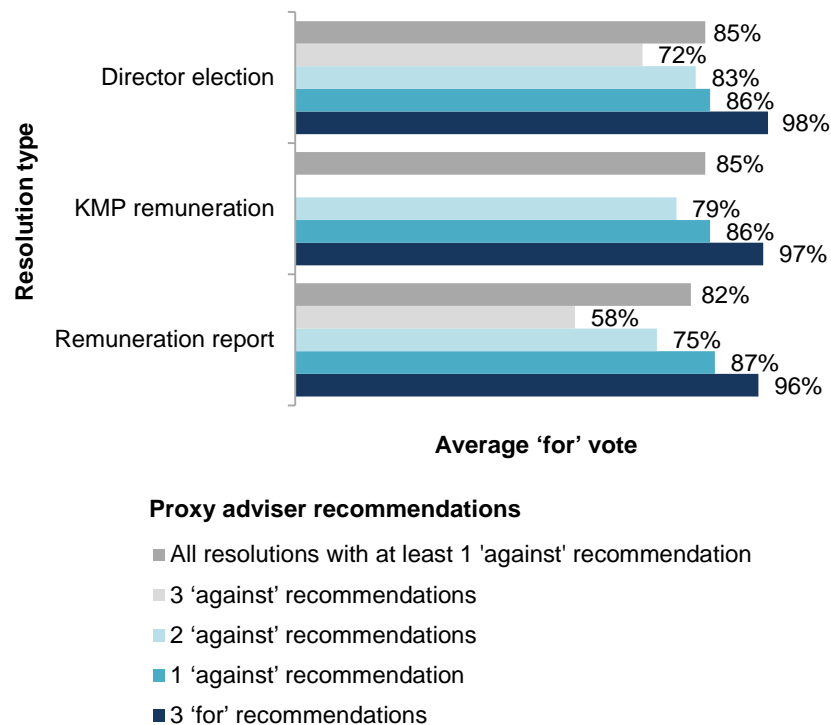


Note 1: Where a resolution was subject to more than one 'against' recommendation, the resolution has only been counted once.

Note 2: See Table 7 in the appendix for data shown in this figure (accessible version).

Figure 8 shows the average voting outcomes for three types of resolutions by reference to the number of ‘against’ recommendations a resolution received from these proxy advisers. It also presents the average voting outcome for all resolutions that received at least one ‘against’ recommendation from the proxy advisers.

Figure 8: Average ‘for’ vote by resolution type and number of ‘against’ recommendations from proxy advisers



Note 1: Excludes shareholder-requisitioned resolutions and resolutions where votes were taken by show of hands.

Note 2: See Table 8 in the appendix for data shown in this figure (accessible version).

Table 1 shows the number of resolutions underlying the average voting outcomes presented in Figure 8. In some cases, the size of the underlying dataset is very small, which affects the representative nature of the average voting outcome for that type of resolution.

Table 1: Resolutions by resolution type and number of ‘against’ recommendations from proxy advisers

Number of ‘against’ recommendations	Director election	KMP remuneration	Remuneration report
3 ‘for’ recommendations	403	201	142
1 ‘against’ recommendation	35	25	19
2 ‘against’ recommendations	15	6	9
3 ‘against’ recommendations	1	0	1
All resolutions with at least 1 ‘against’ recommendation	51	31	29

At a high level, the data in Figure 8 indicates that:

- resolutions that attracted ‘against’ recommendations from the proxy advisers received a lower average ‘for’ vote
- resolutions that received three ‘against’ recommendations recorded the lowest average ‘for’ vote
- resolutions that received no ‘against’ recommendations recorded the highest average ‘for’ vote.

The average ‘against’ vote for all resolutions attracting at least one ‘against’ recommendation was not sufficiently significant to alter the outcome of the resolution (in terms of the resolution being passed or a strike being achieved on the remuneration report). Of the six ASX 200 companies that had strikes on their remuneration report this year, one received three ‘against’ recommendations, four received two ‘against’ recommendations and one received no ‘against’ recommendations from these proxy advisers. Aside from these strikes, there were no other changes to the outcomes of resolutions of ASX 200 companies that received ‘against’ recommendations from these proxy advisers.

Clients of these proxy advisers have strongly represented to ASIC that they do not follow proxy advisers' recommendations automatically, but make their own voting decisions. There were also reports of large institutional shareholders deciding to vote against resolutions that were the subject of a 'for' recommendation by proxy advisers.

We have not considered the voting patterns of the particular clients of the relevant proxy advisers or the particular issues resulting in the 'against' recommendations. The voting outcomes of resolutions receiving an 'against' recommendation may be attributable to matters other than proxy advisers' recommendations, such as company performance. The data in Figure 8 should be viewed in this light.

ASIC recommends

For companies to better address the governance concerns that may lead to higher 'against' votes where proxy advisers issue 'against' recommendations, we encourage companies to:

- understand the engagement practices of proxy advisers
- engage early and proactively with proxy advisers, as an extension of companies' ongoing active engagement with their shareholders
- release notices of meeting to the market early and ensure disclosure to the market is clear and not overly complex.

Shareholder engagement

We observed a high level of shareholder engagement in the 2017 AGM season, with some shareholders actively voicing discontent on various matters, including company underperformance.

Shareholder engagement can take many different forms, and a number of forms of engagement were evident in the 2017 AGM season – from private discussions between shareholders and companies, to media-run campaigns and shareholder-requisitioned meetings. What is sometimes labelled shareholder ‘activism’ may involve long-term shareholders of companies actively exercising stewardship of their assets.

‘A fundamental principle of corporate governance is that investors should be able to hold the board – and through the board, management – to account for the entity’s performance. Investor engagement can enhance the long-term performance and corporate value of a company for all investors.’

*– John Price, Commissioner, ASIC,
‘Holding the board to account – general meetings
requisitioned by shareholders’, December 2016*

Focus on election of directors

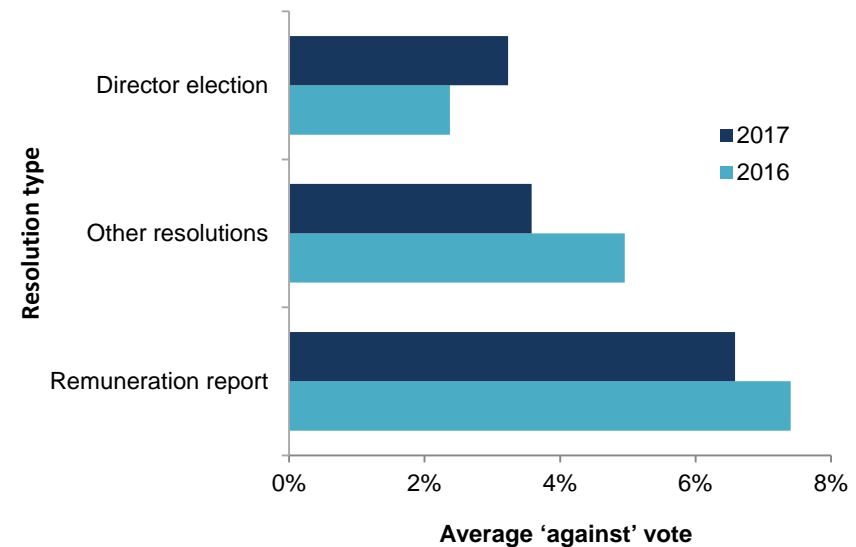
Despite an increased level of shareholder engagement and a number of vocal campaigns by particular shareholders in relation to isolated issues, the overall voting outcomes across the ASX 200 in 2017 were comparable to 2016.

Some commentary has attributed the 2017 voting outcomes to the buoyant state of the market and early engagement with shareholders.

While the overall voting outcomes remained generally static, Figure 9 and Figure 10 below show that the overall sentiment in relation to directors was more negative, with resolutions for the election of directors attracting a noticeable increase in terms of both the number of resolutions receiving material ‘against’ votes and the average vote ‘against’.

Figure 9 shows that the average vote against the election of directors increased, while the average vote against other resolutions decreased.

Figure 9: Average ‘against’ vote by resolution type (ASX 200)



Note: See Table 9 in the appendix for data shown in this figure (accessible version).

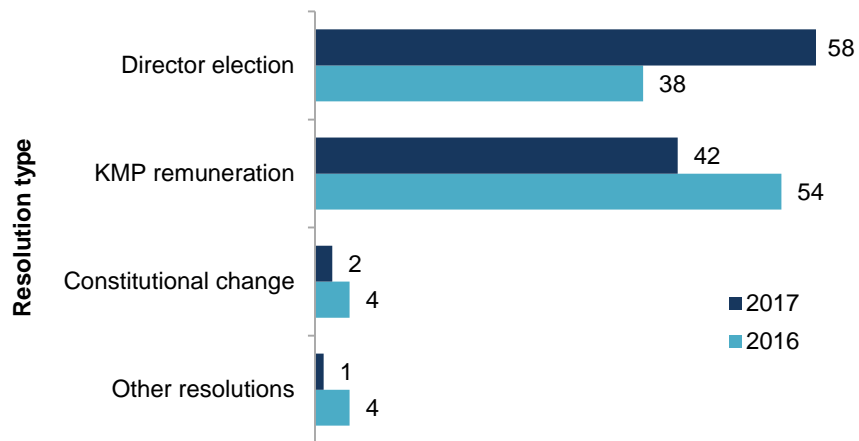
Material ‘against’ votes

Figure 10 shows that shareholders increasingly cast material ‘against’ votes for the election of directors, while material ‘against’ votes on most other resolution types decreased.

Note: Material ‘against’ votes are resolutions that received a vote of 10% or more against the resolution.

Commentary has suggested that this is an indicator of shareholders voicing dissatisfaction with a company’s performance by voting against the election of directors.

Figure 10: Number of material ‘against’ votes by resolution type (ASX 200)



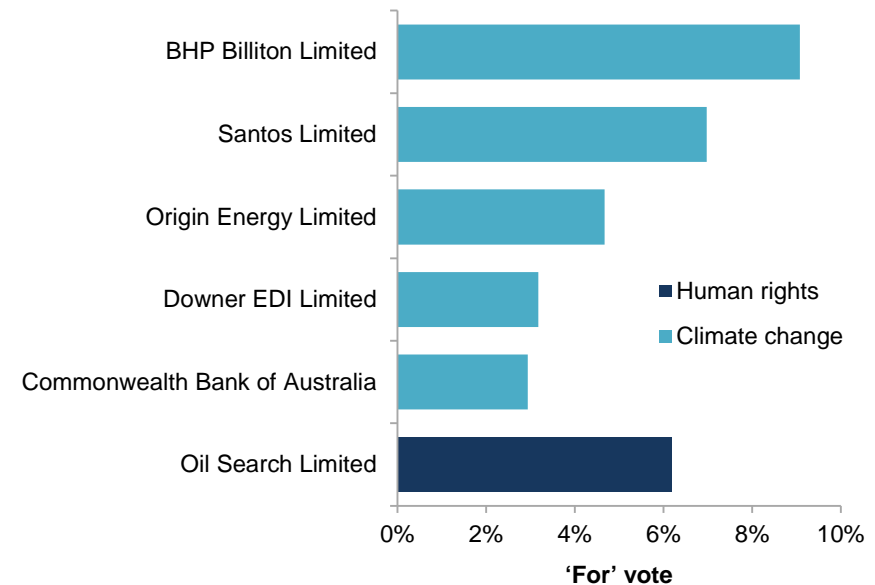
Note 1: Excludes remuneration report resolutions and shareholder-requisitioned resolutions.

Note: See Table 10 in the appendix for data shown in this figure (accessible version).

Shareholder-requisitioned resolutions

Shareholders exercised their rights to requisition resolutions relating to environmental, social and governance (ESG) issues in relation to eight ASX 200 companies. These resolutions focused on climate change and human rights issues. However, Figure 11 shows there was little support for these resolutions from non-requisitioning shareholders.

Figure 11: Percentage of votes cast ‘for’ shareholder-requisitioned resolutions relating to ESG issues in 2017 (ASX 200)



Note 1: Where a proposed ESG resolution was conditional on the passage of a constitutional amendment resolution, the results of the ESG resolution (where available) have been included. Where not available, the results of the constitutional amendment resolution have been included.

Note 2: Resolutions that were withdrawn or not put to members have been excluded.

Note 3: See Table 11 in the appendix for data shown in this figure (accessible version).

ASIC recommends

Strong institutional shareholder engagement is a key component of a well-functioning capital market in Australia. We therefore encourage:

- active stewardship by shareholders
- companies to actively engage with shareholders throughout the year to understand shareholders' concerns, particularly where those concerns relate to long-term company value.

We note the increasing trend for shareholders to raise ESG issues, including climate risk and sustainability. We expect all boards to proactively consider and manage all material and emerging risks relevant to their company.

'We have seen a rush of shareholder resolutions this AGM season which are actually seeking to create a non-binding vote in individual companies.'

– Australian Council of Superannuation Investors, 'Shareholder Resolutions in Australia: October 2017'

'Companies and their boards should proactively consider reporting on climate risk as part of their annual reports, particularly within their operating and financial review.'

... In particular, listed entities must include information about their business strategies, and prospects for future financial years: s299A. They should discuss environmental and other sustainability risks where those risks could affect the entity's achievement of its financial performance or outcomes disclosed, taking into account the nature and business of the entity and its business strategy. As with risk disclosure generally, the prominence and extent of any disclosure of climate risk should be relative to the materiality of those risks.'

– ASIC, 'Report 539 ASIC regulation of corporate finance: January to June 2017', August 2017

Gender diversity

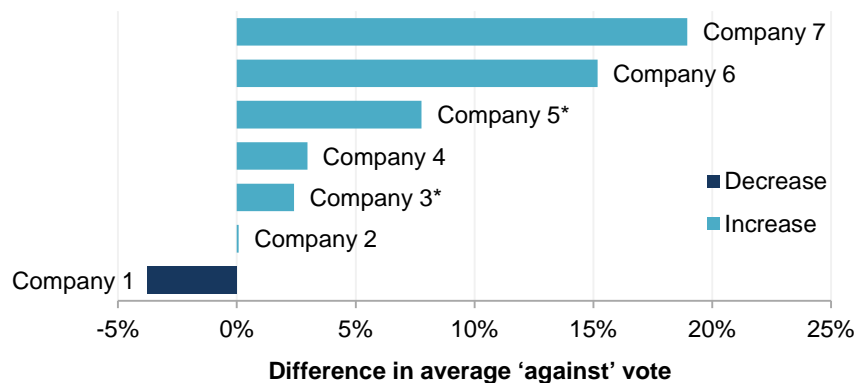
Gender diversity on the boards of ASX-listed companies has continued to be a topic of interest among shareholders. Particular attention has been given to this issue by the Australian Council of Superannuation Investors (ACSI), which recommended that its members vote against the election of certain directors in companies without female representation on their boards.

Note: See Australian Council of Superannuation Investors, 'Voting Policy – Gender Diversity in the ASX200', August 2016.

Figure 12 shows the difference in the average vote against director elections in 2017 compared to 2016 for ASX 200 companies in which ACSI reportedly recommended its members vote against a particular director election resolution.

Note: See 'Shareholders pressure for board women', *The Age*, 21 November 2017.

Figure 12: Difference in average 'against' vote on director elections for selected companies with all-male boards from 2016 to 2017 (ASX 200)



Note 1: Where companies had more than one director election resolution, the results were averaged. Excludes companies that elected a female director at or before their AGM. Two companies (denoted with a *) elected female directors after their AGMs.

Note 2: See Table 12 in the appendix for data shown in this figure (accessible version).

ASIC recommends

We support board diversity as a mechanism to maximise board performance and limit the prevalence of 'groupthink' in boards. We recommend that companies strive to achieve the appropriate level of board diversity to achieve optimal board performance. This extends beyond gender diversity.

Effectiveness of meetings

We observed some companies seeking to restructure their AGMs and incorporate the use of technology to achieve more meaningful engagement with shareholders. However, more significant changes to the structure of AGMs, such as the widespread adoption of direct voting or hybrid AGMs, was not observed. The adoption of constitutional changes to facilitate hybrid AGMs in the future indicated a potential trend towards this path.

Note: A hybrid AGM allows shareholders to attend, vote or ask questions physically or online.

Of particular concern was the fact that 25 companies in the ASX 200 continued to decide resolutions by a show of hands rather than by conducting a poll.

'A poll reflects the wishes of shareholders present at the meeting as well as those shareholders who have lodged proxies. It is often the case that only a very small percentage of shareholders, by number and value, attend the AGM. It is not good governance for the chair to knowingly allow the wishes of this small percentage of shareholders to prevail over the wishes of a larger number of shareholders attending the meeting by proxy or casting direct votes.'

– Governance Institute of Australia,
'Guidance on governance issues arising from the 2014 AGM season', March 2015

ASIC recommends

We consider that the appropriate response to concerns about the effectiveness of AGMs is for companies to seek out methods to increase meaningful engagement with shareholders, including enhanced use of technology and other mechanisms.

We strongly encourage companies to adopt a poll on all resolutions as a matter of course, as good corporate governance. Polls more democratically reflect the principle of 'one share one vote' and reflect the wishes of shareholders attending the meeting as well as those who have voted by proxy.

Appendix: Accessible versions of figures

This appendix is for people with visual or other impairments. It provides the underlying data for each of the figures included in this report.

Table 2: ASX 200 companies that received remuneration strikes

Remuneration strike type	2016	2017
First strike	11	5
Second strike	0	1

Note: This is the data contained in Figure 2.

Table 3: 'Against' votes on the remuneration report in 2017 for ASX 200 companies that received a first strike in 2016

Company	2016	2017
Carsales.com Limited	55%	13%
Commonwealth Bank of Australia	51%	8%
Mineral Resources Limited	49%	41%
Goodman Group	39%	24%
AGL Energy Limited	37%	3%
Spark Infrastructure Group	34%	16%
Sims Metal Management Limited	32%	5%
Metcash Limited	30%	2%
Woodside Petroleum Limited	28%	1%
Boral Limited	26%	4%
CSL Limited	26%	12%

Note: This is the data contained in Figure 3.

Table 4: ASX 200 companies close to receiving remuneration strikes

Close to remuneration strike type	2016	2017
Close to first strike	5	8
Close to second strike	0	1

Note: This is the data contained in Figure 4.

Table 5: Change in 'for' votes on remuneration reports from 2016 to 2017 (ASX 1–100 and ASX 101–200)

Direction of change in vote from 2016 to 2017	ASX 1–100	ASX 101–200
Increase	16%	14%
Decrease	20%	19%
<5% change	64%	67%

Note: This is the data contained in Figure 5.

Table 6: Number of resolutions that received 'against' recommendations by resolution type (ASX 200)

Resolution type	ASX 1–100	ASX 101–200
Director election	28	39
KMP remuneration	21	21
Remuneration report	19	16
Other	2	2

Note: This is the data contained in Figure 6.

Table 7: Percentage of resolution types that received 'against' recommendations (ASX 200)

Resolution type	For	Against
Director election	87%	13%
KMP remuneration	84%	16%
Remuneration report	82%	18%

Note: This is the data contained in Figure 7.

Table 8: Average 'for' vote by resolution type and number of 'against' recommendations from proxy advisers

Resolution type	All with at least 1 'against' recommendation	3 'against' recommendations	2 'against' recommendations	1 'against' recommendation	3 'for' recommendations
Director election	85%	72%	83%	86%	98%
KMP remuneration	85%	N/A	79%	86%	97%
Remuneration report	82%	58%	75%	87%	96%

Note: This is the data contained in Figure 8.

Table 9: Average 'against' vote by resolution type (ASX 200)

Resolution type	2016	2017
Director election	2.37%	3.23%
Other resolutions	4.95%	3.58%
Remuneration report	7.40%	6.58%

Note: This is the data contained in Figure 9.

Table 10: Number of material 'against' votes by resolution type (ASX 200)

Resolution type	2016	2017
Director election	38	58
KMP remuneration	54	42
Constitutional change	4	2
Other resolutions	4	1

Note: This is the data contained in Figure 10.

Table 11: Percentage of votes cast 'for' shareholder-requisitioned resolutions relating to ESG issues in 2017 (ASX 200)

Resolution type	Company	For vote
Climate change	BHP Billiton Limited	9.07%
Climate change	Santos Limited	6.97%
Climate change	Origin Energy Limited	4.67%
Climate change	Downer EDI Limited	3.18%
Climate change	Commonwealth Bank of Australia	2.94%
Human rights	Oil Search Limited	6.20%

Note: This is the data contained in Figure 11.

Table 12: Difference in average 'against' vote on director elections for selected companies with all-male boards from 2016 to 2017 (ASX 200)

Company	Difference between 'against' vote from 2016 to 2017
Company 1	-3.78%
Company 2	0.08%
Company 3	2.40%
Company 4	2.97%
Company 5	7.77%
Company 6	15.17%
Company 7	18.96%

Note: This is the data contained in Figure 12.

Key terms

ACSI	Australian Council of Superannuation Investors
AGM	Annual general meeting
ASIC	Australian Securities and Investments Commission
ASX 200	S&P/ASX 200
ESG	Environmental, social and governance
KMP	Key management personnel