Governance News Insight

Key Trends to emerge from the 2016-2018 AGM Seasons

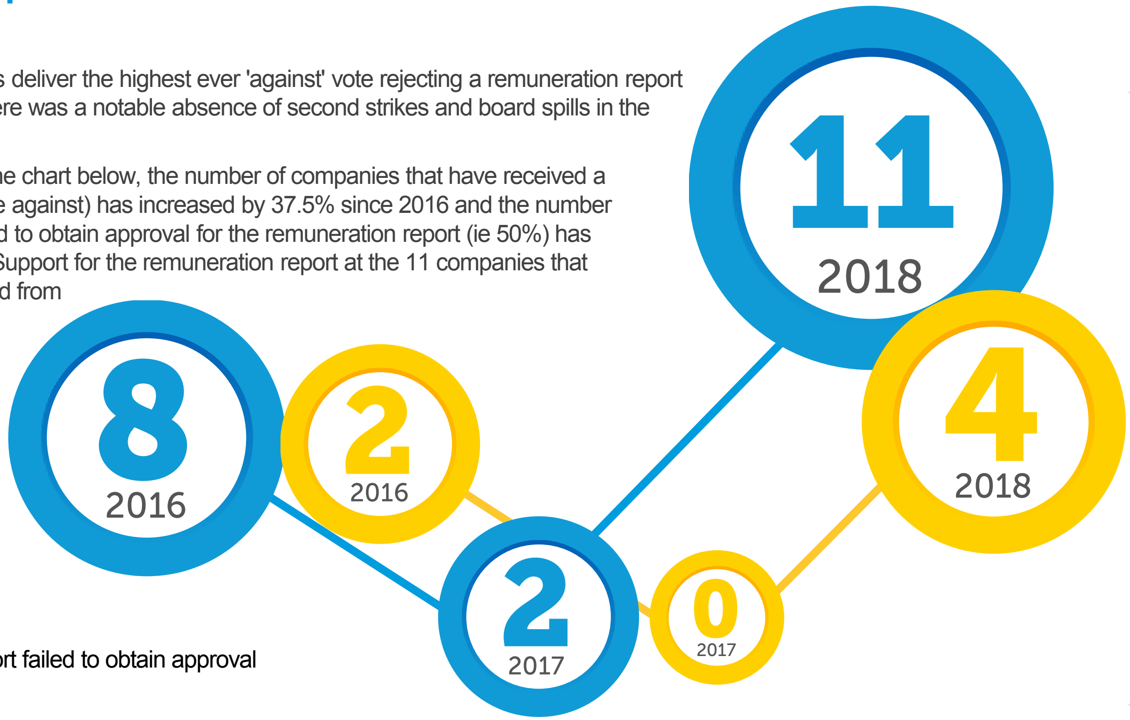
This insight provides a high level snapshot of trends from the AGMs of Australia's largest public companies (ASX 100) over the course of three years from 2016 to 2018. Consistent with previous years, the 2018 AGM season saw shareholders continue to voice concerns about executive pay, while the constitutional barrier, coupled with a lack of board support for environmental social and governance (ESG) resolutions appear to be hampering institutional investors' efforts to improve climate risk disclosure through the AGM forum.

Remuneration

Overall trends

2018 saw shareholders deliver the highest ever 'against' vote rejecting a remuneration report (over 88.43%). Yet, there was a notable absence of second strikes and board spills in the ASX 100.

As can be seen from the chart below, the number of companies that have received a strike (ie over 25% vote against) has increased by 37.5% since 2016 and the number of companies that failed to obtain approval for the remuneration report (ie 50%) has doubled in two years. Support for the remuneration report at the 11 companies that received a strike ranged from 38.02% to 70.71% (averaging at 51.47%).



Received a 'strike'
Remuneration report failed to obtain approval

> In the last 3-4 years we have seen a shift in focus from regulators, investors and proxy advisers on ensuring there is accountability at the executive level to improve reputation and company culture from top down, pushing for an integration of culture and customer satisfaction within variable remuneration, and holding Boards accountable for ensuring good governance.
>
> **MinterEllison Executive Remuneration Team**

> Shareholder and proxy adviser engagement is a key component of mitigating a strike. In our experience, engaging these stakeholders early on in the design of remuneration arrangements in a consultative manner (rather than after implementation / release of the remuneration report) has been key in the turnaround in the level of support for the remuneration report in a subsequent year of receiving a strike.
>
> **MinterEllison Executive Remuneration Team**

2018 Sector Snapshot: Financial Services

'Votes "against" the 2018 remuneration reports of financial sector companies were influenced as much by companies' responses to the Royal Commission reporting, as they were by key executive pay'

Overall increase
Number of strikes increased from one in 2016 to five in 2018 with shareholder support averaging 41.32% (compared to 51.47% in the ASX 100 generally)

3x

3x the number of remuneration reports failed to pass
Number of remuneration reports that failed to pass tripled over three years with the average level of support for remuneration reports 10.15% lower in the financial services sector as compared with other sectors

Protest votes
Four directors received more than 10% of votes against his or her re-election

'Near misses'

'We have observed that companies who made a shift toward greater shareholder alignment through their variable remuneration have had less pushback on quantum – it's a 'win win' situation'

2018 Near Misses
In 2018, six companies avoided a strike by less than 5%

2017 Near Misses – What came next?
Of the companies that narrowly avoided a strike in 2017, a third subsequently received a strike in 2018. In contrast, shareholders of the remaining companies strongly supported the remuneration reports averaging 97.97% approval

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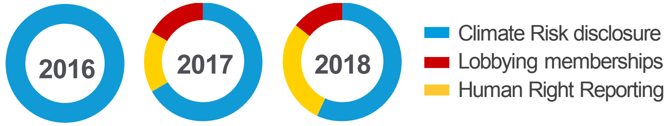
ESG

Overall trends

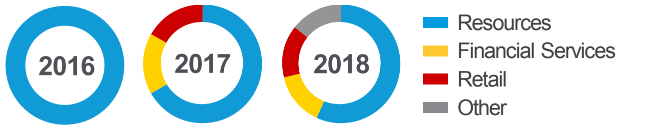
Globally the focus on the importance of ESG and more particularly climate issues has been increasing over the past three years. In Australia, boards and regulators (APRA and ASIC) have identified climate change as a key risk. However, the number of shareholder resolutions, though increasing, remains relatively modest.

Increase In the Number Of ESG resolutions

Over a three year period the topic of ESG resolutions has diversified



Over a three year period the resources sector has consistently been the most impacted by ESG resolutions, though the financial services and retail sectors have also been targeted



Possible barriers to the passage of ESG resolutions

Passage of a constitutional amendment appears unlikely to be supported

- All seven 2018 ESG resolutions were subject to a constitutional amendment and none passed
- One resolution in three years has not been subject to a constitutional amendment and this was the only resolution to pass (though this was also a special resolution).

Lack of board support

- Only one resolution has had board endorsement and this remains the only ESG resolution to have passed in the last three years. This suggests that board support is a key contributing factor.

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"The relatively low numbers of ESG resolutions that proceed to meetings and their failure to pass, is not necessarily indicative of a lack of investor concern. Rather, there are a number of factors at play. Chief among these includes the fact that, in Australia, the passage of such resolutions would necessitate a change to the company's constitution, which is often a bridge too far for Australian shareholders hesitant to encroach on what they perceive to be management's territory. In other jurisdictions such as the US, where constitutional amendments are not required, the number of ESG resolutions is higher as is their success rate. In addition, there is the associated difficulty of securing management support for ESG resolutions – though, even where resolutions are unsuccessful, concessions are sometimes made. Finally, successful engagement by investor advocates (such as the Australian Council of Superannuation Investors) on these issues outside of the AGM process also plays a role

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