

**EQUINITI**

# AGM Trends

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2017

**EY**  
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A photograph of St Paul's Cathedral in London at sunset. The cathedral's large dome is the central focus, silhouetted against a sky transitioning from orange to blue. In the foreground, a glass and metal walkway is visible, with several blurred figures of people walking across it. The overall scene is bathed in the soft, cool light of twilight.

# Foreword

In EY's report ***Future proofing corporate governance***\* published in June this year, one of the themes we explored was accountability in the shareholding chain. From this and other work we have done, it is clear that with the profile of shareholding in UK plc changing, for example with increasing short term holdings, a fall in retail shareholders and higher foreign ownership, categorising investors as a single homogenous group is no longer appropriate. Yet for our governance framework to function effectively, shareholders must exercise their stewardship role and engage with companies and their directors, and the Annual General Meeting (AGM) remains a key opportunity to do this.

\* <http://www.ey.com/uk/en/issues/governance-and-reporting/corporate-governance/ey-future-proofing-corporate-governance>



From Equiniti's *Review of Trends during the 2017 AGM Season* we are pleased to note that as well as covering well publicised remuneration issues, shareholders also asked questions in relation to environmental, social and governance issues, diversity and Brexit. This broadening out also tallies with other calls for directors to engage with and consider a company's wider stakeholders in running the company for the long term.

In EY's latest review of FTSE 350 annual reports and accounts, we analysed whether such broader stakeholder engagement occurs and, if so, what it consists of and how it is communicated. Our findings show that many companies do indeed put in a lot of effort to engage with their wider stakeholders. However, insight on the topics discussed and issues raised, the company's response and where material, how this information was taken into account by the board in its long term decision making could be improved. Look out for our full report which will be published shortly.

With the dial shifting from shareholders to wider stakeholders, as well as the increased ability to use technology effectively, should the concept of the AGM as an engagement and communication mechanism evolve to cover a broader group?

Indeed some have already started exploring this - Rolls Royce plc held its first "staff AGM" called "Meet the board" in May 2017 immediately following its main AGM and we may see these types of practices develop in the future.

I'd like to thank Equiniti's Registration Services and Company Secretarial team, Prism Cossec, for their work in compiling this report.

**Mala Shah-Coulon**

Associate Partner  
EY UK Corporate Governance team

September 2017



A photograph of a modern glass skyscraper at dusk. The building's facade is composed of a grid of dark metal frames and large glass panels. The interior lights are on, creating a warm glow against the dark blue sky. In the foreground, several people are walking, their figures slightly blurred, suggesting movement. The overall atmosphere is professional and contemporary.

# AGM Trends 2017

Welcome to AGM Trends 2017,  
the annual review of trends and  
developments during the 2017  
AGM season compiled by  
Equiniti's Registration Services  
and Company Secretarial teams.



# EQUINITI'S ANNUAL REVIEW OF TRENDS DURING THE 2017 AGM SEASON.

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Politically the past year has been turbulent. The results of the EU referendum and the snap general election caught many businesses unaware. Brexit will have implications for the operations of many businesses but the extent of these are still unclear given the ongoing negotiations. In business, the scrutiny over executive remuneration continued and some came under challenge for their working practices. Did these macro events feed through to considerations and areas of concern for shareholders when reviewing company performance and voting at the annual general meeting (AGM)?

Whilst the nature of most of the formal resolutions passed at the AGM do not perhaps lend themselves to being a barometer of change, investor relation bodies and shareholders can register their concerns and bring pressure to bear when voting on resolutions to approve the annual report, remuneration reports and re-appoint directors. In addition the nature of shareholder questions is often a reflection of investor and broader stakeholder concerns.

## OUR ANALYSIS OF 2016/17 AGMS HAS HIGHLIGHTED SOME TRENDS TO CONSIDER WHEN PLANNING 2018 AGMS. THESE ARE:

- A widening of shareholder rebellions from just remuneration issues to other areas of concern over governance such as over-boarding and director independence.
- Remuneration issues continue to be of concern to investors where they perceive bonuses and pay rises are unjustified by performance.
- Ongoing concern over governance issues and ensuring companies are properly run is reflected in areas such as directors having sufficient time to carry out their responsibilities.
- Shareholders are willing to take action in specific cases of high profile accounting or management irregularities.
- A continued interest in exploring electronic meetings.
- A focus on non-financial reporting largely due to regulatory changes and the expectations of investors and stakeholders.

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### Key to tables

1. Unless otherwise indicated, all statistics quoted in this report are taken from research undertaken by Equiniti's AGM team. The statistics include all companies in the FTSE 100 and FTSE 250 indices as well as Equiniti clients outside of these indices (referred to as Other). All 2017 statistics are for the 2016/17 year as at 31 July 2017.
2. Statistics based on Equiniti clients only.

# AGM LOGISTICS

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**An enormous effort is made by companies to ensure that their AGM is held at the right location, at the right time, for the right cost.**

The needs and experiences of companies are vastly different when sourcing an AGM location ranging from using the company's own offices to hiring a major conference venue. This is partly driven by the expected interest in and attendance at the AGM by shareholders and partly by the attitude of the Chairman and the board towards the AGM as a communication event.

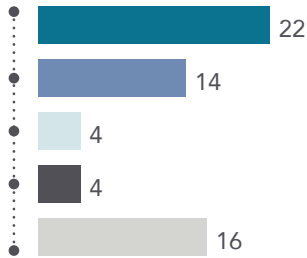
London continues to be the favoured location for the majority of companies surveyed however a significant number of companies of all sizes chose to hold their AGMs outside of London. Hotels and conference centres are understandably the venue of choice for larger companies with company offices or the offices of lawyers/ advisers popular with smaller companies. In 2017 a majority of companies of all sizes held their AGMs before midday. The most popular time for an AGM was in the hour of 11.00am which was the starting time for about a third of the AGMs we surveyed.





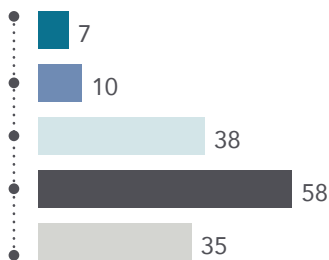
## LONDON

### FTSE 100<sup>1</sup>



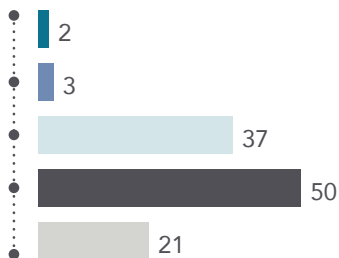
TOTAL: 60

### FTSE 250<sup>1</sup>



TOTAL: 148

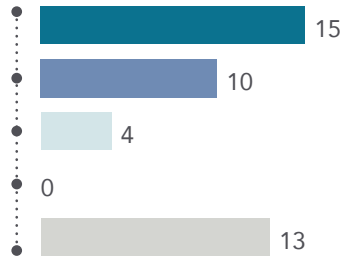
### OTHER<sup>2</sup>



TOTAL: 113

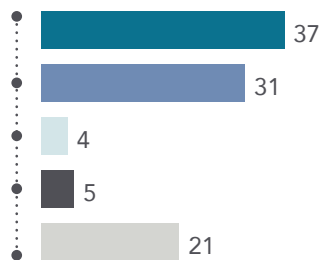
## OUTSIDE LONDON

### FTSE 100<sup>1</sup>



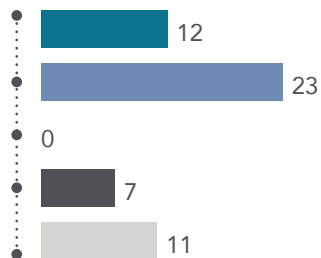
TOTAL: 42

### FTSE 250<sup>1</sup>



TOTAL: 98

### OTHER<sup>2</sup>



TOTAL: 53

■ Conference Centre
 ■ Hotel
 ■ Company offices
 ■ Lawyers/Advisers
 ■ Other

## SHAREHOLDER QUESTIONS

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# A review of the types of questions asked at FTSE 350 AGMs reveals some interesting trends.

Generally, the larger the company and its share base, the greater the number of questions are asked. In addition, those companies operating in sectors that may be considered as sensitive, such as mining or pharmaceuticals, will receive a greater number of questions and interrogation from shareholders. In terms of types of questions asked these are mostly company specific. However, the next largest group of topics raised by shareholders are questions on:

- Strategy, the annual report, dividend payments and results;
- Executive and employee remuneration and benefits;
- Governance and diversity;
- Brexit;
- Corporate social responsibility including health and safety and the environment;
- The AGM venue and arrangements.

Questions are rarely asked on specific resolutions but where this is the case it is usually about the approval of political donations resolution (where a company has put one to shareholders) or audit tenders and fees.

ShareAction (registered charity as The Fairshare Educational Foundation) is an organisation promoting responsible investment. They still attend a large number of meetings (predominantly FTSE100 but also FTSE250). Questions asked by ShareAction focus on the Living Wage, responsible tax behaviour, renewable electricity and factory farming. Additional information can be found on their website: <https://shareaction.org/>



# The Electronic AGM

Our article in last year's AGM Trends booklet on the first fully electronic AGM, which was held by Jimmy Choo, generated a lot of interest. With this in mind we thought it would be useful to include extracts of an article written by Freshfields Bruckhaus Deringer LLP (with their kind permission) on the legal issues to note for companies who are considering holding an electronic AGM.

Those companies who are interested in holding an electronic AGM should take advice from their lawyers.

# VIRTUAL GENERAL MEETINGS

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## TREADING NEW GROUND

by Christopher Mort and Anna Wallace, Freshfields Bruckhaus Deringer LLP  
A longer version of this article first appeared in the April 2017 issue of PLC Magazine <http://uk.practicallaw.com/resources/uk-publications/plc-magazine>

## In 2016, Jimmy Choo PLC held the first virtual AGM of a UK listed company. Virtual general meetings are shareholder meetings that are held without a physical place of meeting.

They are distinct from hybrid meetings, where there is both a physical place of meeting and electronic access, and from satellite meetings, where there is more than one physical place of meeting.

In a virtual AGM, the meeting is held electronically through a conference call dial-in or through web browser or app technology, or a combination of the two. Jimmy Choo's AGM was held through a conference call to enable shareholders to ask questions and had separate app and web browser functionality so that shareholders could follow a presentation by management and vote.

### VALIDITY

Article 8 of the Shareholder Rights Directive (2007/36/EC) (the Directive) requires EU member states to permit companies to offer their shareholders any form of participation in a general meeting by electronic means. This is implemented in the UK by section 360A of the Companies Act 2006 (section 360A).

The Directive states that non-resident shareholders should be able to exercise their rights in relation to general meetings as easily as shareholders that reside in the member state in which the listed company has its registered office. A senior Queen's Counsel has confirmed that the Directive has been adopted in the UK in a manner that permits a company to hold a virtual meeting without also having a physical meeting.

Electronic means include: real-time transmission of a general meeting such as a video-conference; real-time two-way communication such as a conference call dial-in enabling shareholders to address the general meeting from a remote location; and a mechanism such as web or app voting buttons for casting votes without the need to appoint a proxy holder who is physically present at the meeting.



For shareholders in traded companies, the right to participate in meetings electronically is subject to any restrictions that are necessary for the company to ensure the identification of those taking part and the security of the electronic communication, but only to the extent that the restrictions are proportionate to achieve those objectives (section 360A(2)).

For Jimmy Choo's AGM, each shareholder was given a unique number and password for them to dial in to ask questions and to access the app or web browser to vote. This ensured that, at all times, the chair knew who was participating in the AGM.

## INTERNATIONAL PERSPECTIVE

In the US, virtual AGMs are widely held. Several of Jimmy Choo's directors are also on the boards of US listed companies and, having had positive experience of virtual meetings in the US, they were keen to adopt a similar approach in the UK.

## CHECKS AND PREPARATIONS

A company that is planning to hold a virtual AGM should consider the following issues.

**Articles of association.** The articles of association must not, directly or indirectly, prohibit holding meetings entirely in electronic form. For example, if the articles require, as they typically do, a notice of a general meeting to state the time, date and place of a general meeting, this could mean that general meetings would have to be held in a physical place. There may be other provisions that imply that general meetings must be held in a physical place. Even if the articles do not prohibit holding virtual meetings, best practice would be to amend the articles to specifically allow meetings to be held electronically.

For most companies, this will mean that moving to a virtual general meeting is a two-step process of:

- Amending the articles at the next general meeting or AGM.
- Holding the following general meeting or AGM as a virtual meeting.

In recent months, a number of companies have amended, or are proposing to amend, their articles to enable virtual general meetings. Some of these companies have no current plans to hold hybrid or virtual general meetings but have used the opportunity of making other changes to their articles to add the flexibility to hold virtual meetings.

**Consultation with shareholders.** Most companies will want to consult with key shareholders to ensure that they are comfortable with virtual general meetings. Some shareholders may react adversely, particularly if there has been a long-standing tradition of well-attended physical meetings.

**Technology considerations.** The company's registrar should be able to source the correct technology to hold a virtual general meeting, enabling participants to both speak and vote at the meeting, as registrars Equiniti did for Jimmy Choo's AGM. It is important that the registrar and technology provider work together closely as they will be responsible for counting the votes submitted electronically and ensuring the smooth running of the meeting. The company should also consider whether the chosen technology can accommodate a company's specific requirements, for example, allowing voting throughout the meeting or showing presentation slides.

**Notice of meeting and proxy form.** The notice of general meeting should contain clear instructions on how to access, speak and vote at the meeting.

The notice should make it clear that voting will be done on a poll. There should also be a helpline number to the registrar or technology provider, or both, for those shareholders who need assistance with using the technology before or at the meeting. The proxy form may also need updating.

**Preparing the chair and board.** As the meeting will involve new procedures, it is advisable to prepare a detailed script for the chair and carry out dry runs, including of the voting process. This should ensure that the technology runs smoothly and the directors are prepared, in particular for any shareholder questions on the new arrangements.

**Usual requirements apply.** The usual requirements, such as those relating to quorum, notice periods, documents to be put on display, and counting and announcing the results of the vote, still apply and must be met. The UK Corporate Governance Code provides that all directors should attend an AGM and that the chairs of the audit, remuneration and nomination committees should be available to answer questions (Code provision E.2.3).

## SEEING OTHER PARTICIPANTS

It was clear from *Byng v London Life Association Ltd* that a valid shareholder meeting could be held without all of the participants being physically present in the same room provided that they could see and hear each other ([1990] Ch 170). *Byng* pre-dates the Directive and section 360A supersedes the requirement in *Byng* to see the other participants as there can be effective voting as long as the chair of the meeting knows who is speaking.

## SHAREHOLDERS WITHOUT INTERNET ACCESS

In this digital world it is arguable that more shareholders have access to a smartphone, smart device or a desktop browser than are willing or able to attend a general meeting in person, but this will ultimately depend on the company's shareholder base. Shareholders who wish to vote but not attend the virtual general meeting may still vote by completing a proxy form.

## TECHNOLOGY FAILINGS

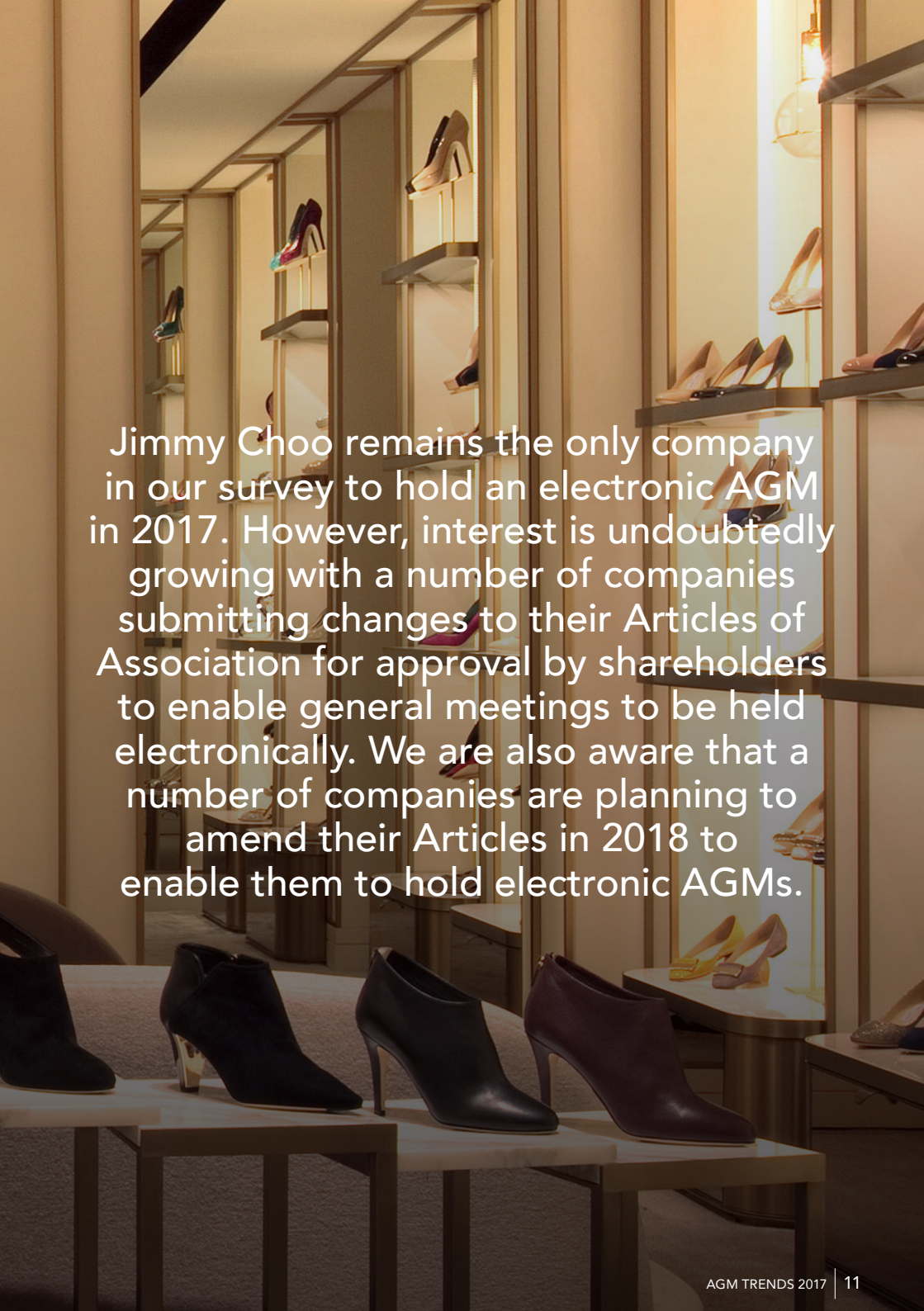
The company's articles should cater for any failure in the technology used for the general meeting, including where it affects only one shareholder or a few shareholders. In particular, articles should give the chair the discretion to adjourn the meeting as the chair would not be able to put a resolution to adjourn to the shareholders.

## INVESTOR VIEWS

No institutions or investor bodies publicly objected to Jimmy Choo holding a virtual-only AGM, but Pensions and Investments Research Consultants Ltd and the Investment Association have expressed concerns with virtual-only meetings in their general guidance, on the basis that the AGM is the only opportunity that shareholders have to meet and address the entire board. However, many companies have AGMs which very few shareholders choose to attend in person.

**CHRISTOPHER MORT IS A PARTNER, AND ANNA WALLACE IS AN ASSOCIATE, AT FRESHFIELDS BRUCKHAUS DERINGER LLP.**



A photograph of a retail shoe store. The scene is filled with various styles of high-heeled shoes, including pumps and loafers, displayed on shelves and tables. The lighting is warm and focused, highlighting the shoes. The background shows a long, narrow aisle with more shelves and shoes, creating a sense of depth.

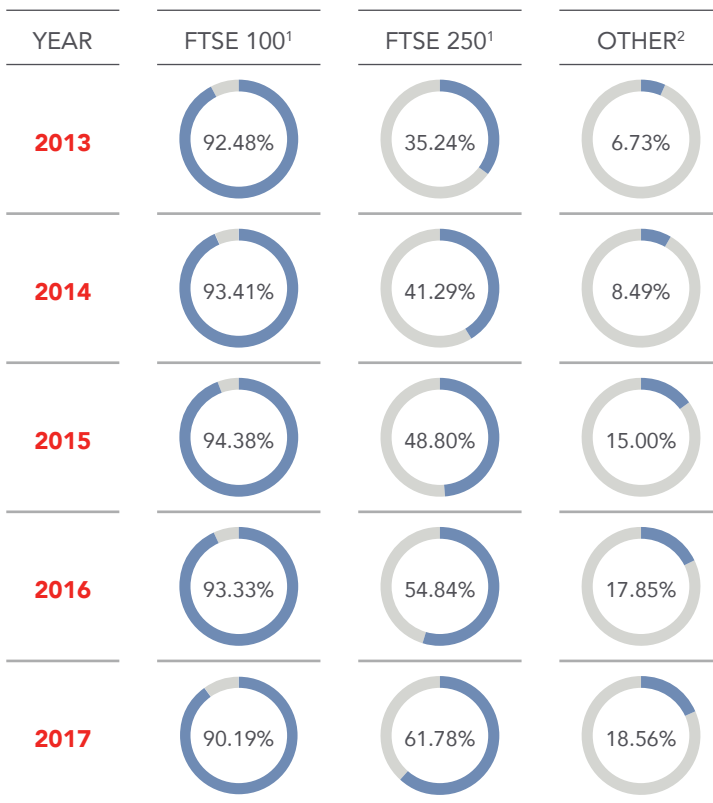
Jimmy Choo remains the only company in our survey to hold an electronic AGM in 2017. However, interest is undoubtedly growing with a number of companies submitting changes to their Articles of Association for approval by shareholders to enable general meetings to be held electronically. We are also aware that a number of companies are planning to amend their Articles in 2018 to enable them to hold electronic AGMs.

## VOTING METHODS

The vast majority of FTSE 100 companies use voting by poll at their AGMs and this number has remained fairly consistent over the last few years.

The increase away from a show of hands towards poll voting amongst FTSE 250 companies increased substantially with a smaller increase for mid/small cap companies. The move to poll voting can be attributed to the perceived fairness in counting all votes received rather than just those of shareholders who are able to attend on the day. In addition the logistics for poll voting are often less time consuming than having a show of hands at the meeting for each resolution.

### PERCENTAGE OF COMPANIES SURVEYED VOTING BY POLL



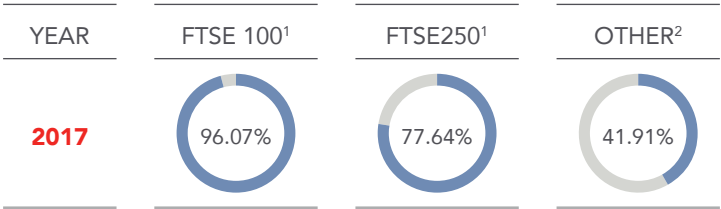




The number of companies offering electronic proxy appointments (EPA) has remained static and a majority of small/mid cap companies chose not to offer it.

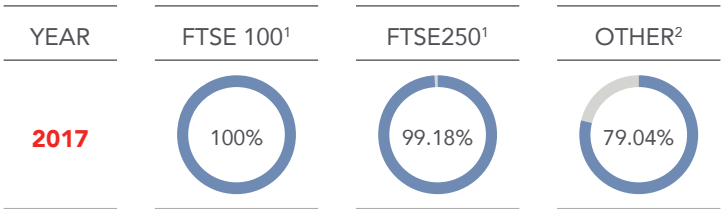
The number of voters choosing to use EPA remains very small and may be one reason why there is still a large proportion of FTSE 250 and smaller companies who don't offer this service.

**PERCENTAGE OF COMPANIES SURVEYED OFFERING EPA**



CREST voting continues to be an important offering by companies of all sizes and is clearly the method of choice for the largest shareholders.

**PERCENTAGE OF COMPANIES SURVEYED OFFERING CREST VOTING**

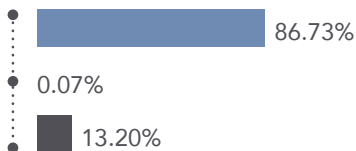


The importance of voting by paper for small shareholders is clear to see, however, companies who no longer send a paper proxy form to their 'web default' audience have seen a significant increase in the use of online voting.

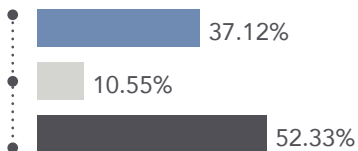
**PERCENTAGE OF VOTES CAST BY MEDIUM**

**PERCENTAGE OF VOTERS BY MEDIUM**

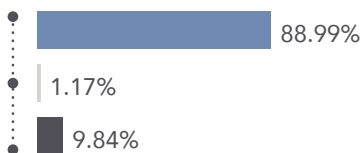
2017 FTSE 100<sup>2</sup>



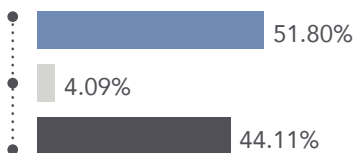
2017 FTSE 100<sup>2</sup>



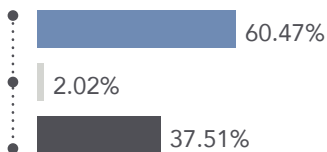
2017 FTSE 250<sup>2</sup>



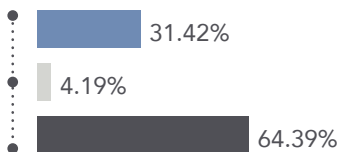
2017 FTSE 250<sup>2</sup>



2017 OTHER<sup>2</sup>



2017 OTHER<sup>2</sup>



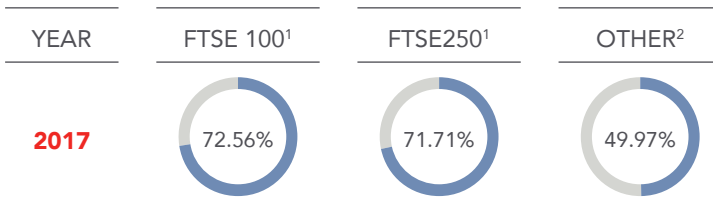


## PERCENTAGE OF ISSUED SHARE CAPITAL VOTED

In terms of the percentage of issued share capital voted at AGMs, the results are in line with expectations. Generally FTSE 100 and FTSE 250 companies can expect at least 70% of their issued share capital to be voted with this figure remaining fairly static over the last few years. This is due, at least in some part, to pressure on large shareholders to actively engage and vote in order to hold companies to account following the financial crises in

2008 and subsequent introduction of the Stewardship Code by the Financial Reporting Council (FRC) in 2010. The FRC continues to monitor and report on the stewardship practices of institutional investors including their voting patterns. In terms of mid/small cap companies the engagement of shareholders is not as positive with just less than half of the issued share capital being voted.

## AVERAGE PERCENTAGE OF CAPITAL VOTED





# BUSINESS OF THE MEETING

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## APPROVAL OF THE REPORT AND ACCOUNTS

It seems that shareholders do not use, or very rarely use, the resolution approving the annual report and accounts to register any concerns they may have about the company or its performance. Of 515 companies surveyed 96% received votes of 97% or more in favour. However, this makes it more interesting to consider the 4% of cases where companies received less than 97% of votes in favour of their report and accounts and in particular the 1% who received less than 90%. In these instances the companies concerned have been in the spotlight for well publicised accounting scandals or mismanagement. In addition, companies operating in sectors such as mining sometimes receive protest votes from activists against the report and accounts.

## APPROVAL OF PAYMENT OF A DIVIDEND

Unsurprisingly, shareholders continued to vote in support of the payment of a dividend where one was proposed. Of 515 companies surveyed 351 companies put a dividend resolution to shareholders for approval. Of these only 3 companies achieved a vote of less than 99% in favour and no company received a vote of less than 97%. Companies should not be complacent however. The Financial Reporting Lab's report *Disclosure of dividends – policy and practice* issued in November 2015 recommended companies improve their disclosures on the rationale for dividend payment and the risks and constraints associated with their dividend policy. It continues to monitor standards of these disclosures by the FTSE 350. Expectations from investors on communicating the reasons and support for dividend payments, particularly in companies whose performance is struggling, is likely to increase as a result.

Companies should ensure that they have filed relevant accounts at Companies

House (including where appropriate interim accounts) showing that the company has sufficient distributable reserves before a dividend can be paid. This Companies Act 2006 requirement has caught a number of companies out recently and means that the dividend has not been paid in accordance with legal procedures even if the company had sufficient reserves at the time. Where this has occurred the companies in question have had to rectify the situation by asking shareholders, either at the AGM or in a general meeting, to approve a Deed of Release so that the company cannot reclaim the dividends in question from shareholders.

## DIRECTORS' REMUNERATION POLICY AND REMUNERATION REPORT

Remuneration legislation introduced in 2013 requires director remuneration policies to be put to a binding shareholders vote at least once every 3 years. Therefore, as was expected, a large number of companies sought shareholder approval for their remuneration policy in 2017. As time passes it is likely that the peak in approvals sought for the policy report every three years will reduce as companies put policies forward after only one or two years where there is need to. One FTSE 100 company and two FTSE 250 companies withdrew their remuneration policy resolutions and are not included in these figures.

The number of companies achieving a 90% or more vote in favour of the remuneration policy has increased from 80.25% in 2016 to 86.57% in 2017. This indicates that most companies have considered their remuneration policies carefully in line with guidance from institutional investor relation bodies and sought feedback from their major shareholders. Shareholder discontent seems to be reducing as companies are taking engagement with investors more seriously and taking action on

YEAR	FTSE 100 <sup>1</sup>	FTSE250 <sup>1</sup>	OTHER <sup>2</sup>
2014	100 93.12%	229 95.12%	107 96.08%
2015	19 94.09%	68 94.25%	41 96.29%
2016	17 91.22%	38 93.05%	26 95.75%
2017	65 94.61%	133 94.02%	70 96.02%

■ Number of companies putting forward a remuneration policy resolution

■ Average vote in favour

the back of any feedback received.

Indeed the government in its long awaited response on corporate governance reforms<sup>3</sup> published on 29 August, has dropped the proposal it put forward in its November 2016 green paper to introduce annual binding votes on pay. In order to provide greater confidence that companies will take action if encountering shareholder opposition, the Government has invited the Investment Association to maintain a public register of listed companies receiving shareholder opposition to pay awards of 20% or more, along with a record of what these companies say they are doing to address shareholder concerns.

Companies achieving a lower percentage than 90% should consider whether such levels of voting constitute a "significant proportion of votes" for the purposes of Code Provision E.2.2 of the UK Corporate

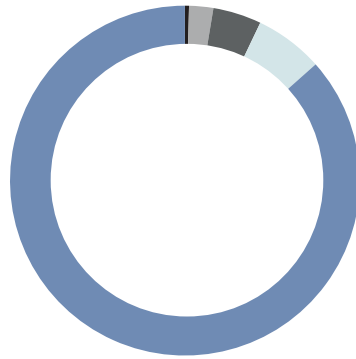
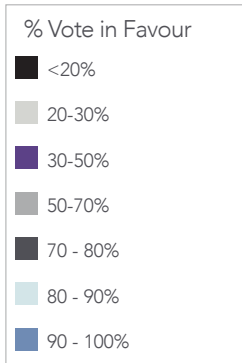
Governance Code. This requires companies to explain when announcing the results of voting what action they intend to take to understand the reasons behind a significant vote against result. The GC100 and Investor Group's guidance<sup>4</sup> on the remuneration report suggests that 'companies may wish to consider votes against in excess of 20 per cent as being significant, although there may be reasons why, for some companies, a higher or lower level might be more appropriate' and that 'companies may wish to consider disclosing in the annual remuneration report the level of votes against that they deem to be "significant"'. Additionally ISS (Institutional Shareholder Services)<sup>5</sup> indicates that dissent levels of 20% to 30% should be regarded as "significant". The statement required under Code Provision E.2.2 is considered further in the Lost Resolutions section on page 28.

3. [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/640470/corporate-governance-reform-government-response.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/640470/corporate-governance-reform-government-response.pdf)

4. The GC100 and Investor Group: Directors' Remuneration Reporting Guidance is available from the GC100 section of the Practical Law website: <https://uk.practicallaw.thomsonreuters.com>

5. The ISS UK and Ireland Proxy Voting Guidelines are available from the ISS website: <https://www.issgovernance.com>

## REMUNERATION POLICY APPROVALS



	2017		2016		2015		2014	
% Vote in Favour	No. of Companies	% of Companies	No. of Companies	% of Companies	No. of Companies	% of Companies	No. of Companies	% of Companies
<20%	1	0.37%	0	0.00%	0	0.00%	0	0.00%
20-30%	0	0.00%	1	1.23%	0	0.00%	0	0.00%
30-50%	0	0.00%	1	1.23%	0	0.00%	1	0.23%
50-70%	6	2.24%	2	2.46%	4	3.12%	9	2.07%
70-80%	12	4.48%	1	1.24%	5	3.91%	10	2.29%
80-90%	17	6.34%	11	13.59%	9	7.03%	35	8.03%
90-100%	232	86.57%	65	80.25%	110	85.94%	381	87.38%

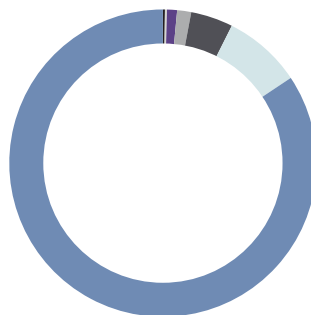
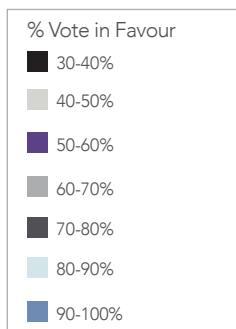
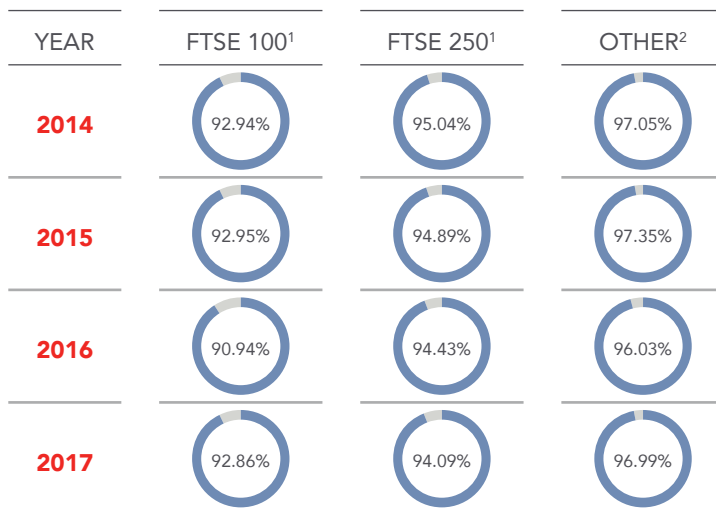
### ANNUAL REPORT ON REMUNERATION

Whilst the number of lost resolutions and close call votes on the annual report on remuneration remains small, there were slightly more on the annual report on remuneration as compared to the remuneration policy report. This may indicate shareholder dissatisfaction at how remuneration policy has been implemented and the current policy arrangements in place.

Average votes in favour of the annual report on remuneration have remained

fairly static across the board. A small number of companies are still getting into difficulties in relation to their remuneration reports. Again where this has been the case shareholders are protesting against remuneration which is seen to be out of step with company performance, where bonuses and executive pay rises are viewed as excessive and if performance targets are not perceived as being sufficiently stretching. Such shareholder rebellions for large companies often make the headlines.

## AVERAGE PERCENTAGE OF VOTES IN FAVOUR OF ANNUAL REPORT ON REMUNERATION



% Vote in Favour	2017		2016		2015	
	No. of Companies	% of Companies	No. of Companies	% of Companies	No. of Companies	% of Companies
30-40%	1	0.21%	0	0.00%	0	0.00%
40-50%	1	0.21%	4	1.08%	1	0.21%
50-60%	5	1.06%	4	1.08%	3	0.63%
60-70%	7	1.48%	9	2.42%	13	2.74%
70-80%	21	4.44%	11	2.95%	14	2.95%
80-90%	39	8.25%	36	9.67%	28	5.89%
90-100%	399	84.35%	308	82.80%	416	87.58%



# AUDITOR'S RE-APPOINTMENT/REMUNERATION

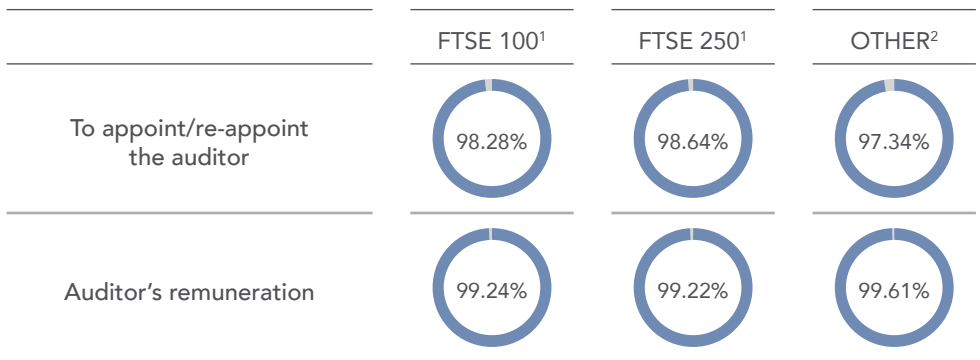
It was expected that the focus on resolutions to appoint or re-appoint auditors would receive greater attention following EU Audit Reform regulations in response to the 2008 financial crisis which came into effect in 2016.

However, resolutions to appoint or re-appoint the auditor and to approve the auditor's fees continue to receive a high level of support across the board regardless of the size of company. The typical percentage vote in favour of these resolutions is 98 – 99%.

A small number of companies continue to present one resolution combining the re-appointment of the auditor together

with approval of arrangements for approving the auditor's fees. Of those companies surveyed, 6 FTSE 100, 17 FTSE 250 and 54 mid/small cap companies presented a combined resolution. Whilst investor relation groups object to companies taking this approach this has had little impact on the voting result.

## AVERAGE PERCENTAGE OF VOTES IN FAVOUR 2017



Those companies receiving less than 90% of votes in favour of the re-appointment/ appointment of the auditor (around 3% of the 507 companies putting such a resolution forward) should consider carefully factors such as the length of tenure of their current auditor, auditor fees, auditor independence, audit quality and any accounting issues.

# RESOLUTIONS TO APPOINT/RE-APPOINT DIRECTORS

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## The vast majority of companies received healthy votes for the election of directors and specifically for the Chair and Audit and Remuneration Committee Chairs.

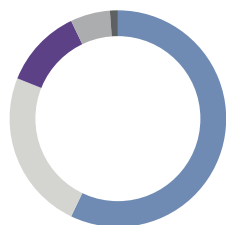
Generally speaking a vote in excess of 97% in favour for a director is usual. In cases where a director receives less than 95% in favour a company should investigate whether there are any particular reasons for this.

Independence of non-executive directors is a key consideration for achieving votes in favour. Sometimes, even where the board believes a non-executive director is independent, shareholders do not. This was the case at Centamin plc where shareholders voted against a non-executive director appointed to the remuneration committee as he was considered by some shareholders not to be independent. For those premium listed companies with a controlling shareholder the situation is exacerbated further. Listing Rule 9.2.2E requires the election or re-election of any independent director to be approved by all of the shareholders and also by the independent shareholders of the company. Sports Direct International plc lost the independent shareholder vote for the Chair of the company at their September 2016 AGM due to well published governance concerns. JKN Oil & Gas plc had to contend with a major shareholder proposing resolutions to elect different directors to the board.

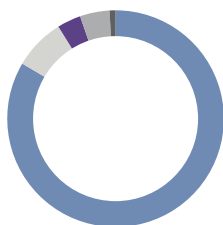
Voting against the Chair in particular is often used as a protest on a variety of issues reflecting concerns over board composition, governance and remuneration. The Chair naturally becomes the focus of shareholder disquiet when a company is under performing. Other reasons for the Chair receiving relatively low votes during the year were governance issues – such as over-boarding i.e. a perceived concern that directors have too many commitments and are unable to carry out their duties effectively, as well as excessive executive pay. In some cases, such as HSBC Holdings plc, a director had to reconsider their portfolio of commitments in the face of potential shareholder revolts. Chairs will also receive votes against where there is dissatisfaction around ethics and governance such as the case of Sports Direct International plc.

Naturally the Remuneration Committee Chair often receives votes against, as was the case in 2017, where investors are concerned over large bonuses and pay rises for executive directors.

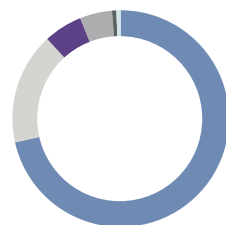
Generally, the Audit Committee Chair received very good support from shareholders across all companies. In instances where this is not the case it was due to a variety of factors such as over-boarding, accounting irregularities, poor company performance and a poor governance record.



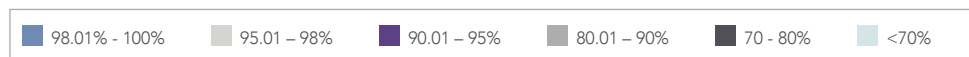
CHAIR



AUDIT COMMITTEE CHAIR



REMUNERATION COMMITTEE CHAIR



	Chair		Audit Committee Chair		Remuneration Committee Chair	
Votes in favour	Number of companies	%	Number of companies	%	Number of companies	%
98.01% - 100%	193	57.10	283	83.48	223	71.47
95.01 - 98%	81	23.96	26	7.67	52	16.67
90.01 - 95%	40	11.84	12	3.54	18	5.78
80.01 - 90%	20	5.92	15	4.42	15	4.80
70 - 80%	4	1.18	3	0.89	2	0.64
<70%	0		0		2	0.64
<b>Total*</b>	<b>338</b>		<b>339</b>		<b>312</b>	

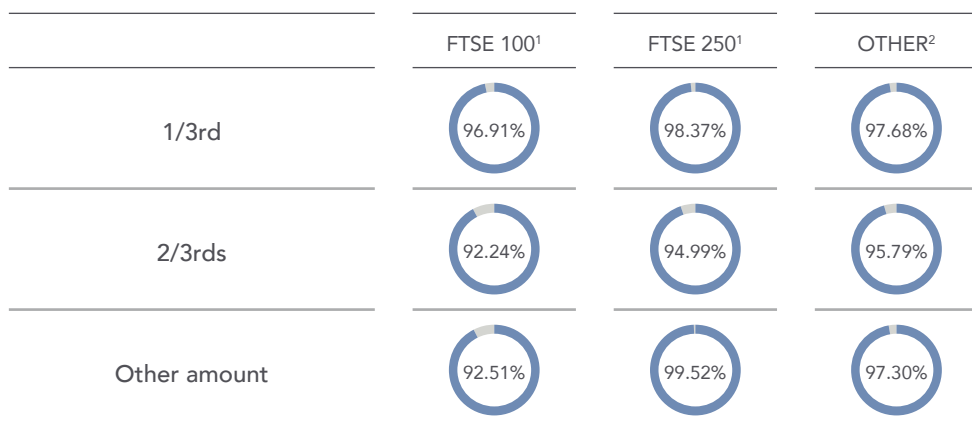
\* The difference in total number of companies is caused by instances where the chair or chair of a committee has stood down at the AGM but the replacement had been made after the AGM or where a company does not have a separate audit or remuneration committee.

Statistics in this table were compiled by Prism Cossec.

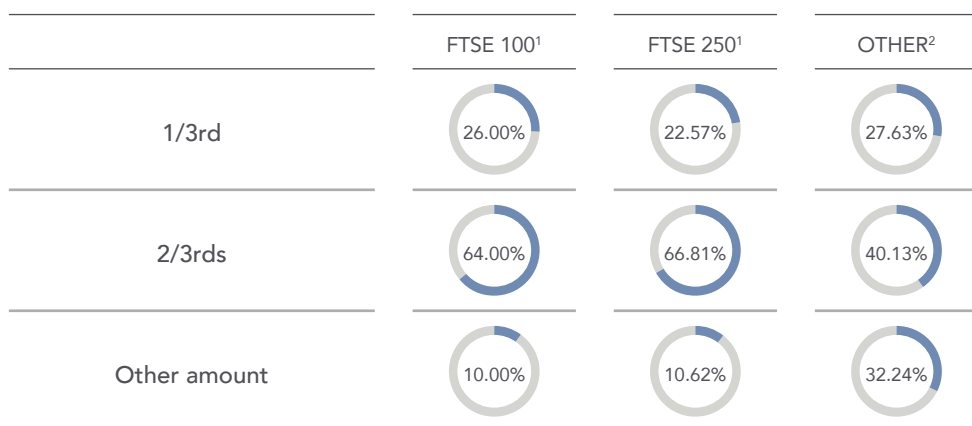
# AUTHORITY TO ALLOT SHARES RESOLUTION

The seeking of authority to allot shares resolution is a standard and non-controversial resolution proposed by a majority of FTSE 100 and 250 companies. Voting in favour remains consistently high where companies ask for authority to allot up to one or two thirds of issued share capital.

## ALLOTMENT AUTHORITY SOUGHT 2017 AVERAGE PERCENTAGE OF VOTES IN FAVOUR



## ALLOTMENT AUTHORITY SOUGHT 2017 PERCENTAGE OF COMPANIES PROPOSING





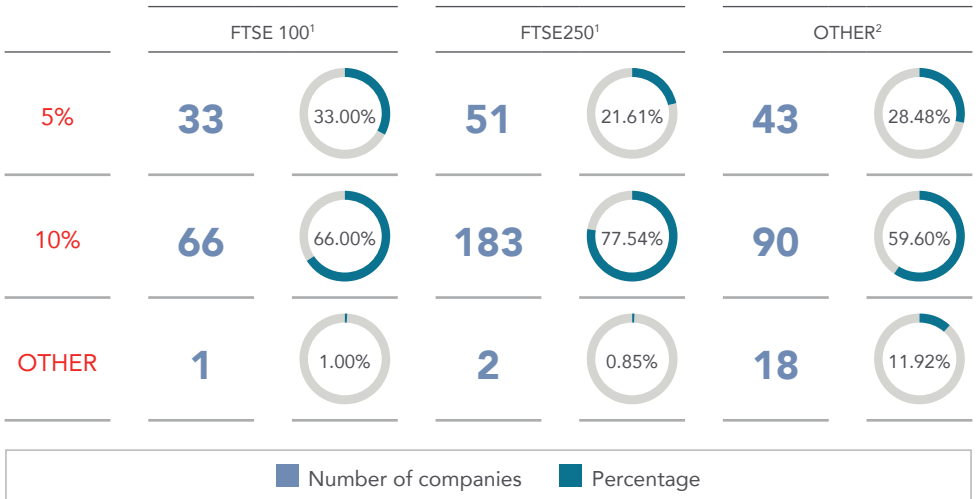
## AUTHORITY TO ALLOT SHARES ON A NON-PRE-EMPTIVE BASIS

Following the publication by the Pre-Emption Group of a revised Statement of Principles for the disapplication of pre-emption rights in March 2015 a much higher number of companies now seek authority to allot up to 10% of share capital on a non-pre-emptive basis. Voting agencies are largely supportive of these resolutions if they follow the Pre-Emption Group guidelines. In order to secure a vote in favour of the 10%

disapplication companies need to ensure that they have properly explained the reason for the increased authority in line with the Statement of Principles which require this to be for an acquisition or specified capital investment.

In 2017, of the 487 companies that put forward a resolution to approve the disapplication of pre-emption rights, 339 (69.06%) requested a 10% authority.

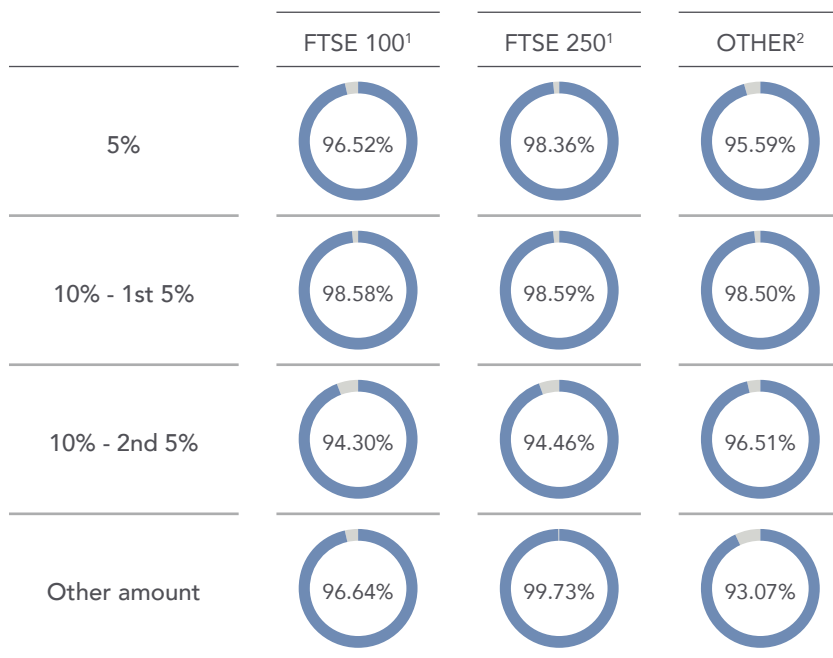
### DISAPPLICATION OF PRE-EMPTION RIGHTS NUMBER OF COMPANIES PROPOSING RESOLUTIONS



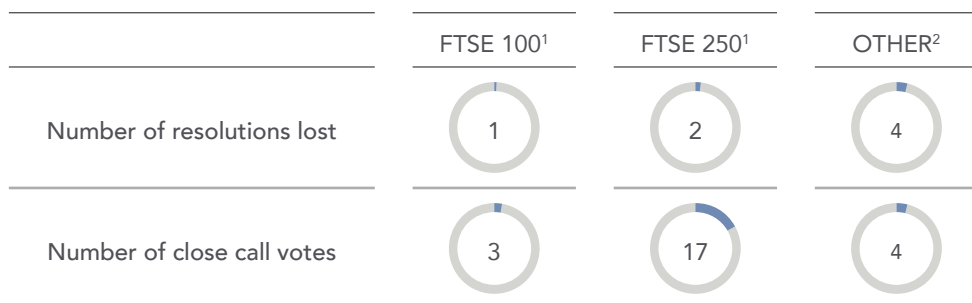
In May 2016 the Pre-Emption Group published template resolutions to be used when seeking approval for the disapplication of pre-emption rights. The Pre-Emption Group expects two resolutions to be proposed – the first for the 5% disapplication to be used on an unrestricted basis and the second for an additional 5% only to be put forward when appropriate for an acquisition or specified capital investment. As the Investment Association (IA) stated that it will apply an ‘amber’ top rating to companies which do not have two separate resolutions from 1 August 2016 and a ‘red’ top from 1 August 2017, it was

expected that the two resolution format would be widely adopted over the coming year. This indeed has been the case with the vast majority of companies putting forward two resolutions based on the Pre-Emption Group templates. Surprisingly, given the warning by the IA, 5 FTSE 100 companies, 33 FTSE 250 companies and 54 other companies sought a 10% authority with a single resolution. Companies ignore the Pre-Emption Group Statement at their peril as the pre-emption resolutions received the most lost and close call (vote is within 10% of the required majority) votes out of all the other resolutions.

DISAPPLICATION OF PRE-EMPTION RIGHTS  
AVERAGE PERCENTAGE OF VOTES IN FAVOUR



DISAPPLICATION OF PRE-EMPTION RIGHTS  
RESOLUTIONS LOST AND CLOSE CALL VOTES



The Pre-Emption Group's Monitoring Report published in May 2017 highlighted areas of poor consultation and disclosure by companies. It also stressed that the second 5% disapplication authority should not be applied for automatically and companies should be applying the spirit as well as the letter of the guidance. The Pre-Emption Group has also recently confirmed that it will not be changing its Statement of Principles following implementation of the EU Prospectus Regulation.

The Statement of Principles and template resolutions can be found on the Pre-Emption Group website: [www.pre-emptiongroup.org.uk](http://www.pre-emptiongroup.org.uk)

### SHARE BUY-BACK AUTHORITY

It is standard practice for most companies to seek authority at the AGM to make market purchases of their own shares. 87% of the 515 companies surveyed did so in the year under consideration. These resolutions are well supported by shareholders with the vast majority of companies receiving a vote in favour of more than 97%.

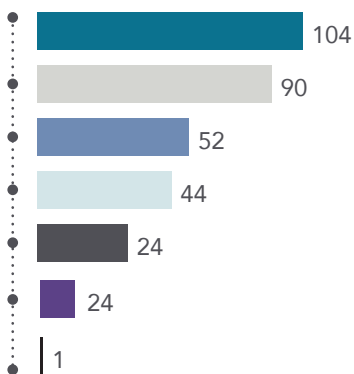
### NOTICE PERIOD FOR GENERAL MEETINGS

Whilst authority to call general meetings on not less than 14 clear days' notice is commonly sought by companies at AGMs, proxy voting agencies are often fearful that the authority may be used indiscriminately to limit shareholders' time to assess and react to a company's proposals at general meetings. Therefore, their support is generally linked to companies providing assurance that the authority will not be used as a matter of routine but only when there is a need for urgency and it is to the advantage of shareholders as a whole. Voting figures show that, whilst the resolution is nearly always passed, there are a high level of votes against compared to those of other routine resolutions. The

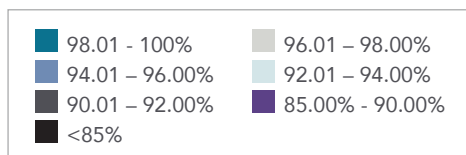
average vote for the resolution in 2017 from the companies surveyed was 95.67%. This highlights the need for companies to be very clear in their explanatory notes why they are proposing the resolution and the circumstances in which the shorter notice period will be used. Of 515 companies surveyed, 339 companies put a resolution on the notice period for general meetings to shareholders for approval. One company lost this resolution, however, generally the votes 'for' increased over the previous year perhaps indicating better explanations and engagement with shareholders on this issue. In addition there is some relaxation of the stance by some proxy voting agencies over their view of this resolution if it is used properly by companies.

### VOTE ON 14 DAYS' NOTICE PERIOD FOR GENERAL MEETINGS

#### NUMBER OF COMPANIES



TOTAL NUMBER OF COMPANIES: 339



## POLITICAL DONATIONS

Very few companies actively support political parties but think it is safest to include a resolution seeking authority for political donations due to the risk of inadvertently breaching the legislation. The broad wording of the legislation means that payments made to a wide variety of campaigning bodies concerned, for example, with policy reform or representing the business community may be caught by the UK legal definition of political donations. Of the FTSE 100, 63 companies included a resolution authorising political donations. A small but growing minority of the FTSE 250 (86 companies) and mid cap companies (27 companies) included a resolution seeking authority for political donations. Where a company does put forward a resolution seeking authority to approve

political donations, shareholders will quite often ask a question probably due to, in most cases an erroneous, concern that companies are paying donations to political parties. Therefore care is needed when explaining the reasons for the resolution in the AGM circular.

## ARTICLES OF ASSOCIATION

Approximately 10% of the 515 companies surveyed made amendments to their Articles of Association which required shareholder approval during the year. The main reasons for seeking approval were for changes to clauses on directors' fees (12 companies), electronic general meeting procedures (11 companies) and general updates (27 companies).





## LOST RESOLUTIONS AND CLOSE CALL VOTES

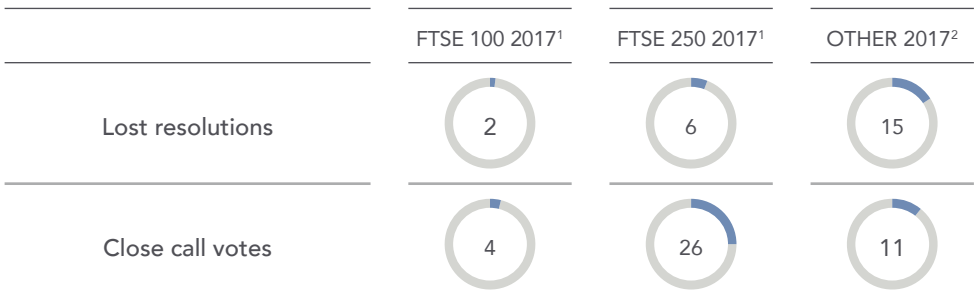
The number of resolutions which are not passed by shareholders at AGMs continues to be very small. The resolutions that run into difficulty remain the same as in previous years. The remuneration policy report and annual report on remuneration, authority to allot shares, authority to disapply pre-emption rights and authority to call general meetings on not less than 14 days' notice remain at the top of the list for investor protest votes. There have also been a small number of instances of directors failing to be re-elected.

Where there is a close call vote or lost resolution companies subject to the UK Corporate Governance Code (the Code) should comply with Code Provision E.2.2 or explain why they haven't complied in their next annual report. This provision requires a company to explain when announcing the results of voting what action it intends to take to understand the reasons behind a significant vote against result. Under the Code it is for the board to decide what constitutes 'a significant vote against', however, in line with

guidance published by bodies such as the GC100 and ISS, 20-30% of votes against is likely to be "significant", although lower levels of votes against a particular resolution (where historic levels of support have been significantly higher) might also trigger this provision.

The response to this Code requirement is variable. Where the resolution concerned was in connection with remuneration or a director's re-election (such as in the case of Crest Nicholson Holdings plc and Bodycote plc respectively) a fuller statement is generally present. An example of a well worded statement in this respect is from Centamin plc which sets out the reasons the company believes are behind the significant results against, its immediate response and future plans to consult with major shareholders and proxy advisory groups. However, in cases of the more technical resolutions, such as disapplication of pre-emption rights, statements are often non-existent or boiler plate statements to the effect that the company will consult with shareholders.

## NUMBER OF LOST RESOLUTIONS/CLOSE CALL VOTES\*



\*Vote is within 10% of the required majority

# FUTURE TRENDS?

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The past year has seen a general focus for businesses on ensuring fair pay and conditions for all. It will be interesting to see the impact of the Taylor Review – ‘Good Work: the Taylor Review of Modern Working Practices’ on government thinking. As noted in the Government’s recently published response to its green paper on corporate governance reform, a package of new measures will be introduced to strengthen the UK’s corporate governance system further. Given the government doesn’t have a solid majority and is pre-occupied with Brexit these are largely non-legislative and include a combination of changes to the UK Corporate Governance Code, voluntary industry led action, action by relevant regulators to improve co-ordination and the use existing powers better and some secondary legislation.

## NON-FINANCIAL REPORTING

Additionally change will likely come via revised reporting guidelines. In August 2017, the FRC issued a consultation to revise its Guidance on Strategic Reporting<sup>6</sup>. The new FRC guidance will be effective for years commencing on or after 1 January 2017. As well as covering the new EU Non-Financial Reporting Directive requirements, there is a desire from the FRC to see companies provide better information on how directors have fulfilled their duty under Section 172 of the Companies Act 2006 which requires them to have regard to a number of matters including the long term impact of any decisions, the interests of stakeholders; and non-financial matters in pursuing their duty to promote the long term success of the company.

The emphasis on improved reporting on Section 172 may impact voting at AGMs on resolutions approving the annual report or directors’ re-elections. The reasons for the introduction of Section 172 back in 2006 included extensive lobbying by non-governmental organisations pushing for greater responsibility of companies to the wider community. It could be that going forward the perceived performance by directors against their Section 172 duties may be a consideration of shareholders when voting.

## REMUNERATION

Pressure will continue from shareholders and institutional bodies on executive pay. It appears that many companies have taken on board institutional investor opinion reflected in fewer remuneration policy and report voting rebellions.

## GOVERNANCE

Investors are pushing hard to ensure that directors, particularly non-executive directors, have the time and capacity to give to each company board that they sit on. Where this is not the case directors perceived to be ‘over-stretched’ can expect to see greater numbers of votes against when standing for election or re-election. In addition investor rebellions are likely to be less confined to just remuneration voting if companies are perceived to be acting unfairly towards employees or governance issues generally. AIM companies will also find themselves under greater scrutiny following publication of AIM Notice 46 which proposes changes to the AIM Rules including a potential mandatory governance statement.

6. <https://frc.org.uk/news/august-2017/frc-consults-on-non-financial-reporting-guidance>

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