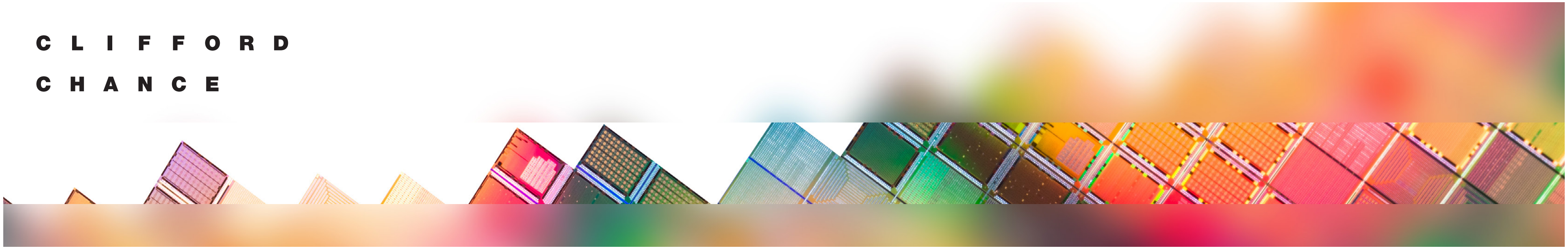


SHAREHOLDER ENGAGEMENT AGMS – WHAT ARE THE LATEST TRENDS?

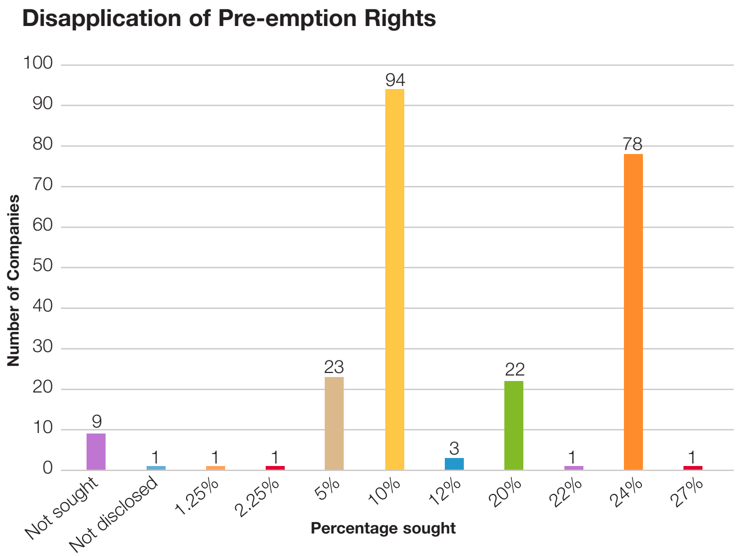
The 2023 AGM season was arguably less eventful than the previous season particularly in relation to the conduct of meetings. It also saw a mixed approach to the relaxation of the Pre-Emption Group's guidelines, an increased number of shareholder requisitioned resolutions (although the number of affected companies remains unchanged) and some expansion of investors' focus on governance and social issues beyond the traditional focus on climate (which remains a key issue). Physical AGMs remained the most popular format, with just under a quarter of companies opting for a hybrid meeting.

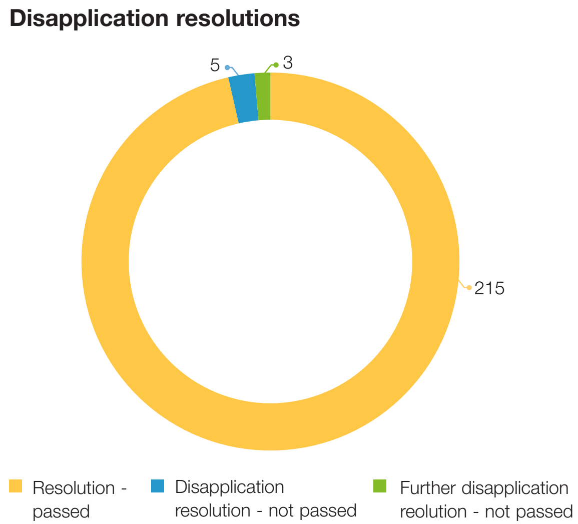
Uptake of increased flexibility to disapply pre-emption rights

In seeking authority to disapply statutory pre-emption rights, companies have adopted a mixed approach to the additional headroom now permitted by the Pre-Emption Group's guidelines.

While 33% of companies have sought to avail themselves of the full 24% authority (comprising 10% for general purposes, a further 10% for the purpose of an acquisition or specified capital investment and an additional 2% in respect of each 10% for a follow on offer to retail shareholders), a further 9.4% have sought a 20% authority (excluding the 2% authorities for follow on offers to retail shareholders) and 40% of companies have retained the lower headroom in line with the previous iteration of the guidelines. The remainder either did not seek an authority this year or sought a more "bespoke" level of authority.

However, we expect to see an increased uptake of the additional headroom in future years, given that a number of companies that did not seek approval for a 24% or 20% authority said they would be evaluating the development of market practice in this respect and companies which did seek the increased authorities generally received high levels of support from shareholders. Nevertheless, a number of companies did see the overall level of support for the disapplication of pre-emption rights authorities decrease by a small margin.

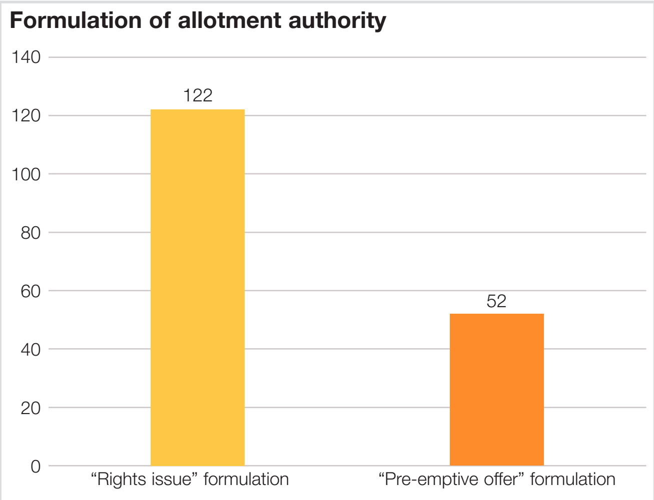




Source: Pracitical Law What's Market FTSE 350 AGMs (24 August 2023)

Certain companies have already made use of the new increased authorities, including Aston Martin Lagonda Global Holdings plc in connection with its placing, subscription and retail offer announced on 31 July 2023 and Synthomer plc on its rights issue announced on 7 September 2023.

In addition, more than a third of companies adopted the Investment Authority's updated position in relation to the allotment authority, enabling the further authority to be used in connection with any pre-emptive issuance, rather than a rights issue only.



Increased opposition to board reappointments

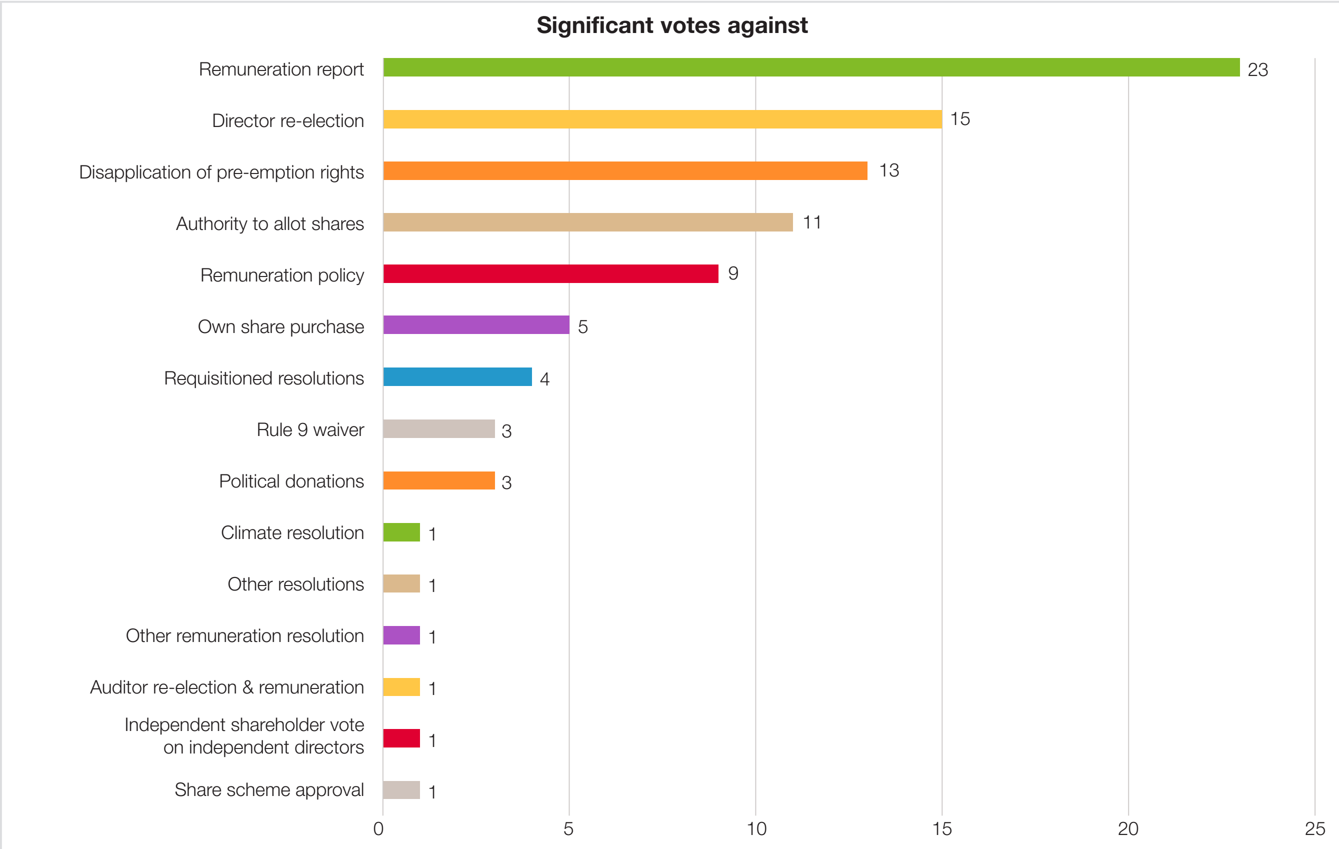
This AGM season has seen renewed investor scrutiny of director reappointments.

Prior to the COVID-19 pandemic, significant votes against director reappointments were largely focussed on concerns around overboarding or independence, however during the pandemic we did not see the levels of opposition that we are now seeing, as attention was understandably diverted to more pressing corporate issues.

The reasons for opposition are now more diverse. In some cases, this has been linked to criticism of remuneration policies, with chairs of remuneration committees being specifically targeted. Elsewhere, scrutiny has been connected to activist campaigns, with shareholders seeking changes to the composition of the board in line with a broader strategy to implement change. We expect to see more of this trend going forwards, as investors increasingly take a more active role in company stewardship.

Other reasons cited by Glass Lewis in relation to their recommendations to vote against the reappointment of certain directors included poor Chair succession planning, insufficient responses to shareholder dissent and insufficient board gender diversity.

Companies that are subject to a recommendation to vote against from one of the proxy advisory bodies should seek to engage in constructive dialogue with shareholders to explain the rationale behind the proposed reappointment in an attempt to head off shareholder opposition.



Requisitioned resolutions

Eight resolutions have been requisitioned by shareholders at six companies this year. Despite the increased number of resolutions as compared to 2022 (six resolutions requisitioned at six companies) and 2021 (four resolutions requisitioned at four companies), the number of affected companies was unchanged as three of the eight resolutions were requisitioned by HSBC shareholders. Of those three resolutions, shareholders again requisitioned a resolution in respect of the "State Deduction" applied to certain members of HSBC's Midland Bank Pension Scheme (as in 2022 and 2021) and two resolutions were requisitioned by HSBC's largest shareholder, Ping An, in connection with a broader strategic campaign for HSBC to spin off its Asia business. This is all indicative of the general increase in shareholder activism relating to UK listed companies.

As with the resolutions requisitioned last year, and in line with the recommendations of each relevant board of directors, none of the eight requisitioned resolutions were ultimately passed.

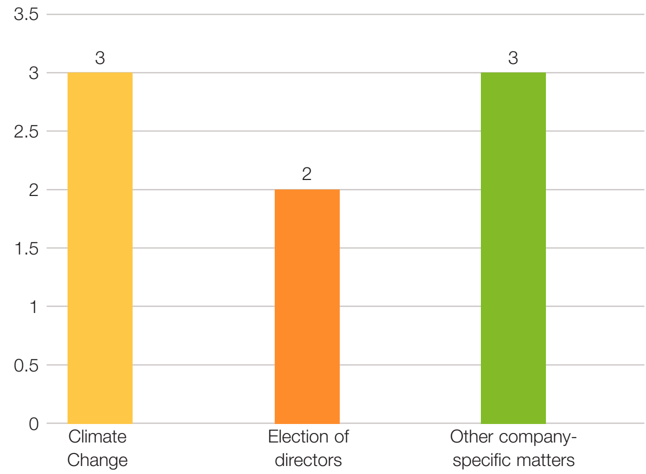
As in previous years, the main focus of the requisitioned resolutions was climate transition plans, greenhouse gas emissions targets and the re-election of certain directors to the board.

ESG activism and potential backlash

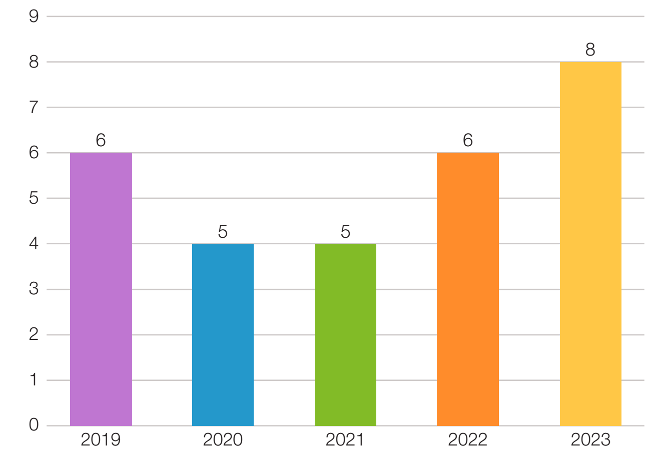
The UK is a growing hotspot for shareholder activism, with both activist funds and long-only institutions taking an increasingly more active role in their stewardship of UK listed companies, with a particular focus on ESG matters. Although activists once again disrupted the AGMs of oil and gas companies and large financial institutions in relation to climate related matters, the focus on a broader range of governance and social issues has also been evident.

Questions raised by shareholders at AGMs of companies with global supply chains focused on a range of "social" issues from saving the bees to modern slavery, and investors globally continue

No. of requisitioned resolutions (2023)



No. of requisitioned resolutions (2019-2023)



to focus on governance – in Japan, proxy advisers targeted the independence of Toyota's board, resulting in a statement from the company on its steps to increase diversity and reduce the number of internal directors.

Notwithstanding increased pressure from activists and a greater number of petitions than in previous years, US companies experienced a waning of support for environmental and social proposals put forward at annual shareholder meetings as compared to 2022 and 2021. This may reflect the fact that many investors now regard a company's approach to climate change as just one part of its overall strategy and not a standalone issue. This theme was replicated in the UK, with support for climate related resolutions generally decreasing from that seen in 2022 and fewer climate related resolutions proposed by companies' boards to their shareholders in 2023 as compared to 2022.

Remuneration

Macroeconomic conditions continue to have a significant impact on pay

Increases in executive base salary were generally lower than those of the wider workforce (4.1% vs 6.8% in the FTSE 350) as companies navigate the current economic climate. Many companies have also been mindful of institutional investor guidance to demonstrate restraint in executive pay in the context of the broader stakeholder experience.

Similarly, average bonus payouts for executives have seen a year-on-year decrease. For the FTSE 350, these were 117.1% of base salary whereas they were 131.5% of base salary for 2022.

Long-term incentive awards granted during the pandemic have though begun to vest which has, due to low share prices at award, led to the potential for "windfall gains". In the main, remuneration committees have not reduced vesting outcomes for pandemic awards but have, in some cases, made changes to future awards to take account of the fact that windfall gains may have been made.

In a triennial directors' remuneration policy year, approximately half of the FTSE 350 to date have put their policy up for approval

Despite operating in a difficult remuneration environment, 34% of FTSE 350 companies have proposed quantum increases under their policy, largely to bonus and long term incentive awards.

This is in the context of comments from Julia Hoggett, CEO of the London Stock Exchange, earlier this year advocating for a "constructive discussion" on the approach to executive pay in the UK to help in the struggle to retain the attractiveness of companies listing in London.

Policies have otherwise generally been renewed on the same basis, with pension reductions, enhanced malus and clawback provisions and enhanced deferral featuring as common best practice amendments.

ESG remains a key theme

Companies are under increasing pressure from institutional investors, regulators and other stakeholders to ensure their remuneration arrangements are consistent with, and promote, their ESG strategy. The UK's leading institutional investors and proxy advisors all state that ESG metrics should form part of remuneration frameworks in their updated principles and guidelines. In addition, the proposed changes to the UK Corporate Governance Code focus on strengthening the link between pay and ESG objectives.

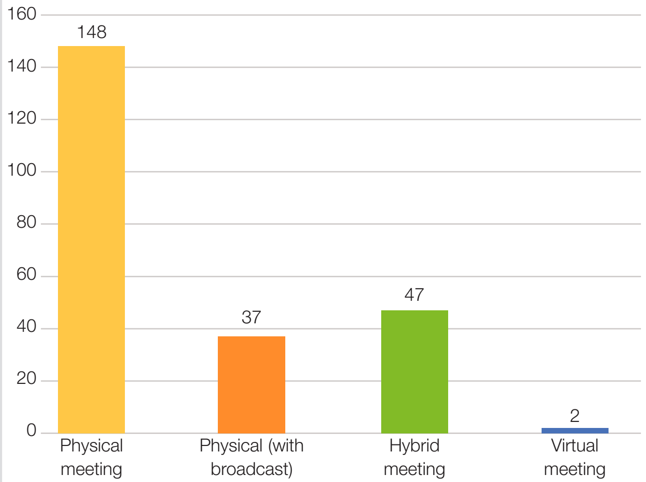
There is a trend towards using standalone ESG metrics rather than only including them in balanced scorecards as part of a holistic assessment of performance, but the Investment Association are clear that ESG conditions should not reward "business as usual" activity.

AGM Format

Physical only meetings have remained the most popular meeting format, as companies continue to view the AGM as a valuable opportunity to engage with shareholders in person. This may also be influenced by the lower than expected uptake of hybrid facilities, when those have been made available to shareholders.

Of the 79% of companies that held physical only meetings, 15.8% also provided shareholders with the opportunity to follow the event remotely, whether by way of a live webcast or a "dial in" facility. 20% of companies adopted a hybrid format, for the most part in line with their approach taken in previous years. Of the two companies which adopted "virtual only" meetings, one is incorporated outside of the UK and took advantage of the greater flexibility under the laws in its place of incorporation.

Form of Meeting



Source: Practical Law What's Market FTSE 350 AGMs (24 August 2023)

While opportunities for enhancing shareholder democracy and cost savings have been referenced as advantages to holding digitally-enabled meetings, there has been some criticism of companies which have recommended that shareholders attend the meeting remotely rather than in person, on the basis that in person interactions facilitate more effective engagement with investors.

Looking ahead

We expect to see a continuation of the themes that emerged in the 2023 AGM season in 2024, with shareholders taking an increasingly active role in the stewardship of UK listed companies. Against that backdrop, we anticipate that the preference for physical only AGMs is here to stay, providing an opportunity for more impactful engagement with investors. The number of companies adopting the Pre-Emption Group's greater flexibility with respect to the disapplication of pre-emption rights is likely to increase, as market practice has now developed.

Across the board

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