

THE EXECUTIVE REMUNERATION REPORTER

2016 REVIEW

This report reviews the 2016 year in meetings, with a focus on the ASX 100.

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A lot of media attention has been taken up with the first strikes occurring in 2016 – AGL Energy, Boral, Carsales.com, Commonwealth Bank of Australia, CSL, Goodman Group, Spark Infrastructure, Woodside Petroleum – yet as the table on pages 3-4 below indicates, the suggestion of some kind of shareholder revolt in 2016 merits closer examination.

If we define ‘strong shareholder support’ as a vote of 90% or more and no resolutions withdrawn from the agenda (where there was a comment to suggest this was due to shareholders’ reaction to the resolution)¹ 50 of the ASX 100 enjoyed strong shareholder support at the 2016 AGM. Leaving to one side the two companies not having an AGM in 2017 (Clydesdale Bank, Graincorp), this indicates 48 of the ASX 100 had a resolution or resolutions attracting shareholder ‘interest’.

So what exactly was the nature of this ‘interest’?

Leaving the eight first-strike AGMs in the ASX 100² to one side for the moment (as the nature of shareholder ‘interest’ is obvious), it was grants of equity to executive (and non-executive) directors, NED fee pool increases, termination benefits and Board-endorsed director elections that were of interest. Yet when put to the AGM (and not withdrawn from consideration), all of these resolutions passed in the ASX 100. This isn’t necessarily the case outside the ASX 100 but, in terms of the ASX 100, these resolutions passed. So while there wasn’t strong support of 90% or more, there was still sufficient support for these resolutions.

It is also obvious that shareholders are taking a nuanced view of the AGM agenda, distinguishing between their vote on the remuneration report and their vote on the other resolutions.

This is somewhat evident in the first strike AGMs noted in the first paragraph, although typically more than one resolution attracted shareholder interest at these AGMs. The exceptions to this are AGL Energy, Boral, Goodman Group,³ and Woodside Petroleum.

COMPANY	RRV16 ⁴	HOW VOTED	Other resolutions attracting attention
AGL	62.93%	Poll	Others fine – LTIP grant 96.65%
BLD	73.87%	Poll	No – LTIP 98.57%; NED FEE POOL 98.91%
CAR	45.21%	Poll	DSTI 73.37%; LTI 67.90%
CBA	49.09%	Poll	CEO LTI resolution withdrawn from AGM
CSL	73.98%	Poll	CEO LTIP 72.75%; NED fee pool 66.18%
GMG	60.76%	Poll	No
SKI	65.67%	Poll	Re-elect Andrew Fay 87.22%; re-elect Douglas McTaggart 84.69%; LTIP grant 65.52%
WPL	72.41%	Poll	No

FIRST STRIKE AGMS, ASX 100, 2016

It is more evident in the companies outside this small group and it can go either way. The first table below shows ASX 100 companies with strong shareholder support as defined above for the Remuneration Report Resolution while other resolutions attracted interest. The second table below shows the inverse situation: the other resolutions are fine but the remuneration report attracted interest.

COMPANY	RRV 16	HOW VOTED	TWO STRIKE AGM?	OTHER RESOLUTION
ALL	96.79%	Poll		LTIP grant 84.09%
ALQ	98.55%	Poll	N2S ⁵	LTIP grant 94.37%
AMP	95.90%	Poll		LTIP 84.96%
AST	90.10%	Poll	NO CBS ⁶	NED fee pool 80.33%
BEN	96.38%	Poll		MD share plan participation 83.23%
BXB	98.87%	Poll		Grant to incoming CEO 89.62%
COH	98.65%	Poll		Re-elect Donal O’Dwyer 77.97%
HSO	97.96%	Poll		LTIP 71.32%
HVN	99.22%	SoH		Several – re-elect David Ackery 75.38%; resolutions to amend constitution ranged from 78.95% (variation of rights) to 87.52% (capitalisation of profits)
JBH	95.21%	Poll		Option grant to MD/CEO 63.50%
LLC	98.09%	Poll		Withdrew constitutional amendment resolution
MFG	99.20%	Poll		Withdrew termination benefits resolution; resolutions granting NED shares plus a loan ranged from 86.28% to 87.14% (three resolutions in total)
NST	98.92%	Poll		LTI grant to William Beaumont 88.27%
ORG	96.98%	Poll		LTI grant to Grant King 83.79%
REA	98.91%	Poll		No – NED fee pool 91.20%
RHC	94.79%	Poll		Re-elect Bruce Soden 89.34%; performance rights grant to CEO 77.43%; performance rights to Executive Director (Soden) 77.42%
SEK	90.67%	Poll		Grant One Equity Right 87.55%; LTIP 73.40%
SGR	98.16%	Poll		NED fee pool 73.62%

COMPANY	RRV 16	HOW VOTED	TWO STRIKE AGM?	OTHER RESOLUTION
SRX	98.49%	SoH		LTIP 85.13%
TCL	97.14%	Poll		LTI grant 87.98%; NED fee pool 93.66%
TWE	97.98%	Poll		NED fee pool 69.93%
VCX	98.30%	Poll		Re-elect Trevor Gerber 74.64%
VOC	96.68%	Poll		Approve LTIP (ASX LR 7.2 exc 9) 78.69%; grant to Vaughan Breen 77.78%; NED fee pool 84.36%

ASX 100 COMPANIES SHAREHOLDER INTEREST IN RESOLUTIONS OTHER THAN THE RRV, 2016

COMPANY	RRV 16	HOW VOTED	TWO STRIKE AGM?	Other resolutions attracting attention
CGF	86.25%	Poll		No; NED fee pool 98.89%
CIM	84.52%	Poll		No
CWN	81.52%	Poll		No
DMP	86.79%	Poll		No
FMG	89.46%	Poll		No
HGG	87.18%	Poll		No
QBE	85.75%	Poll		No
RMD	82.73%	Poll		No
S32	76.92%	Poll		LTI grant 90.04%
STO	88.93%	Poll		No - LTI grant 93.97%
TPM	81.57%	Poll		No
TTS	77.95%	Poll		No
WES	89.91%	Poll		No: LTI grants 94%+

ASX 100 COMPANIES SHAREHOLDER INTEREST IN RRV, 2016

THEMES

In my mini 2016 AGM season review, I identified some themes for the main 2016 AGM season.⁷ Revisiting these now, I note there wasn't any climate change and environment resolutions unlike the 2015 main AGM season or earlier in 2016 with Rio Tinto's 2016 AGM (or attempted at Santos 2016 AGM). However the other themes were all there to see in the main AGM season (although not all were evident in the ASX 100).

Planning for and rewarding lower growth – this is evident in any ASX 100 company where performance declined over the pcp, but the STI scheme vested for the financial measures (as well as the non-financial measures).

Impairment charges and calculations of underlying performance measures for remuneration schemes – these are two separate issues. Neither is fatal to shareholders withholding support as BHP Billiton proved...although the 'right' outcome is also key. At BHP Billiton no variable remuneration awards were paid yet both impairment charges and underlying performance measures feature in the 2016 report.

Strategic performance measures in LTI schemes – this proved fatal to the resolution at CBA (withdrawn from the AGM agenda) but it isn't the only company with strategic performance measures in the LTI scheme.

Corporate culture – the obvious 'target' is the Big Four Banks, although only CBA received a first strike this year, while ANZ's remuneration report came in just under 90%.

You could add to this list other companies attracting interest in their culture (for example due to regulatory action either in Australia or abroad), including BHP Billiton, Crown Resorts, Medibank Private, Rio Tinto, Wesfarmers and Woolworths. Even where the company 'wins', the issues raised by the regulatory action can flag an issue with culture.

Poor corporate culture is not the killer issue attracting sure-fire shareholder wrath that it should be. I suspect one reason why is the difficulty in assessing culture from the outside. How do you proxy culture from the information disclosed by companies? I can take a view based on the various disclosures in the sustainability report or in the operating and financial review. For some companies the key disclosures are in the risk management section of the directors' report. Yet culture is not a simple concept and trying to drill down to one or two simple metrics is likely to prove unreliable.

Corporate culture will remain visible in light of several parliamentary inquiries revived after the July 2016 federal election, and recent news in corporate Australia (not restricted to the ASX 100): Seven West Media and claims of a former employee in respect of the CEO, but also the subsequent management of these issues within that company; Slater & Gordon (ASIC request for materials relating to WIP reporting), Bellamys, CBA and NAB in relation to forex trading; Suncorp Group's corrective action regarding its consumers.

The Treasury's current consultation on whistleblowing may also open up the opportunities for further insights on culture to come to light.

Overly busy non-executive directors – this issue attracts noise during the AGM season but doesn't play out so much in voting in the ASX 100.

Disclosures for ASX Listing Rule 7 resolutions – this is more of an issue for non-remuneration ASX Listing Rule 7 resolutions, particular ASX Listing Rule 7.4 resolutions.

Disclosures for scheme of arrangement meetings – this will continue to be a theme for these meetings (which are separate to the AGM or GM), but you can add to this voting on schemes, an issue attracting attention due to the proposed merger of Tabcorp Holdings and Tatts Group.

Emerging themes

In light of the ASX 100 results, what themes are emerging?

The NED fee pool increase resolutions that attracted less than 90% support are noteworthy as this resolution is usually strongly supported. Most companies present the same rationale for seeking an increase but few stop to consider the timing of the increase. It's not just how much of an increase to the fee pool limit: it's also why it's needed now.

If the company is seeking an increase in the fee pool limit for succession planning purposes, it pays to demonstrate a commitment to succession planning by actually rotating long serving NEDs off the Board and bringing new NEDs on.

Long serving directors are also worth noting as an issue. This becomes more of an issue in companies with founding shareholders where non-aligned shareholders rely on the independent NEDs to balance out the interests of the founder or majority shareholder. It is also an issue in companies with long serving management. In part the ASX Corporate Governance Council's guidance facilitates this by not taking a stronger position on length of service.

Non-financial performance measures are typical in most STI schemes but can also be found in LTI schemes (as a strategic objectives measure).

Fixed remuneration increases still remain an issue for me and it is important to distinguish between newly appointed CEOs and CEOs who remain in office when studying any historical remuneration data.

Constitutional amendment resolutions featured on several AGMs and while there is nothing unusual in this, they attracted shareholder dissent in 2016 (think Harvey Norman Holdings, Lend Lease in the ASX 100). An accurately marked-up version of the constitution should be readily available.

2016 ASX 100 VOTING RESULTS

The table below shows the outcomes on the remuneration report vote at the 2016 AGM⁸

Company Name	Ticker	CY2016 Remuneration Report outcome	SoH or Poll	1S 2016	2S AGM 2016	Other resolutions attracting attention
Adelaide Brighton Ltd	ABC	98.49%	SoH			No
AGL Energy Ltd	AGL	62.93%	Poll	S		Others fine – LTIP grant 96.65%
Aristocrat Leisure Ltd	ALL	96.79%	Poll			LTIP grant 84.09%
ALS Ltd	ALQ	98.55%	Poll		N2S	LTIP grant 94.37%
Ancor Ltd	AMC	97.70%	Poll			No
AMP Ltd	AMP	95.90%	Poll			LTIP 84.96%
Ansell Ltd	ANN	98.97%	Poll		N2S	No
ANZ Banking Group	ANZ	89.99%	Poll			No
APA Group	APA	no RRV				No
AusNet Services Ltd	AST	90.10%	Poll		NO CBS	NED fee pool 80.33%
ASX Limited	ASX	96.19%	Poll			No
Alumina Ltd	AWC	99.31%	Poll			No
Aurizon Holdings Limited	AZJ	98.03%	Poll			No
Bendigo and Adelaide Bank Limited	BEN	96.38%	Poll			MD share plan participation 83.23%
BHP Billiton Ltd	BHP	97.39%	Poll			No
Blackmores Limited	BKL	97.35%	Poll			No
Boral Ltd	BLD	73.87%	Poll	S		No – LTIP 98.57%; NED FEE POOL 98.91%
Bank of Queensland Ltd	BOQ	96.95%	Poll			No
Bluescope Steel Ltd	BSL	94.59%	Poll			No
Brambles Industries Ltd	BXB	98.87%	Poll			Grant to incoming CEO 89.62%
Carsales.com Ltd	CAR	45.21%	Poll	S		DSTI 73.37%; LTI 67.90%
Commonwealth Bank Australia	CBA	49.09%	Poll	S		CEO LTI resolution withdrawn from AGM
Coca-Cola Amatil Ltd	CCL	96.38%	Poll			No
Challenger Limited	CGF	86.25%	Poll			NED fee pool 98.89%
CIMIC Group Ltd	CIM	84.52%	Poll			No
Cochlear Ltd	COH	98.65%	Poll			Re-elect Donal O'Dwyer 77.97%
Computershare Ltd	CPU	98.03%	Poll			No
CSL Ltd	CSL	73.98%	Poll	S		CEO LTIP 72.75%; NED fee pool 66.18%
CSR Ltd	CSR	98.29%	Poll			No
Caltex Australia Ltd	CTX	98.25%	Poll			No
Crown Resorts Ltd	CWN	81.52%	Poll			No
Clydesdale Bank	CYB	NO 2016 AGM				NA
DuluxGroup Ltd	DLX	98.26%	Poll			No
Domino's Pizza Enterprises Ltd	DMP	86.79%	Poll			No
Downer EDI Ltd	DOW	98.98%	Poll		N2S	No
Duet Group	DUE	95.14%	Poll			No
Dexus Property Group	DXS	90.37%	Poll			No
Flight Centre Travel Group Ltd	FLT	97.68%	Poll			No
Fortescue Metals Group	FMG	89.46%	Poll			No
Fairfax Media Ltd	FXJ	99.08%	Poll			No
Goodman Group	GMG	60.76%	Poll	S		No
Graincorp Ltd	GNC	AGM IN FEB 2017				NA – 2015 AGM RRRV 79.87% poll
GPT Group	GPT	98.60%	Poll			No
Henderson Group PLC	HGG	87.18%	Poll			No
Healthscope Ltd	HSO	97.96%	Poll			LTIP 71.32%
Harvey Norman Holdings Ltd	HVN	99.22%	SoH			Several – re-elect David Ackery 75.38%; resolutions to amend constitution ranged from 78.95% (variation of rights) to 87.52% (capitalisation of profits)
Insurance Australia Group Ltd	IAG	97.91%	Poll			No
loof Hldgs Ltd	IFL	91.63%	Poll			LTI grant 90.56%
Iluka Resources Ltd	ILU	95.46%	Poll			No
Investa Office Fund	IOF	no RRV				No
Incitec Pivot	IPL	98.54%	Poll			No
Jb Hi-Fi	JBH	95.21%	Poll			Option grant to MD/CEO 63.50%
James Hardie Industries plc	JHX	78.35%	Poll			ROCE RSUs 85.61%; RELATIVE TSR RSUs 78.64%
Lend Lease Group	LLC	98.09%	Poll			Withdrew constitutional amendment resolution
Link Administration Holdings Limited	LNK	99.76%	Poll			No

Company Name	Ticker	CY2016 Remuneration Report outcome	SoH or Poll	1S 2016	2S AGM 2016	Other resolutions attracting attention
Magellan Financial Group Limited	MFG	99.20%	Poll			Withdrew termination benefits resolution; resolutions granting NED shares plus a loan ranged from 86.28% to 87.14% (three resolutions in total)
Mirvac Group	MGR	98.74%	Poll			No
Medibank Private Limited	MPL	98.24%	Poll			No
Macquarie Group Ltd	MQG	98.66%	Poll			No
National Australia Bank Ltd	NAB	93.12%	Poll			No (grant to MD 92.90%)
Newcrest Mining Ltd	NCM	98.18%	Poll			No
Northern Star Resources Ltd	NST	98.92%	Poll			LTI grant to William Beaumont 88.27%
Navitas Limited	NVT	99.82%	SoH			No
Orora Limited	ORA	98.77%	Poll			No
Origin Energy Ltd	ORG	96.98%	Poll			LTI grant to Grant King 83.79%
Orica Ltd	ORI	94.18%	Poll			No
Oil Search Ltd	OSH	NO REM REPORT RESOLUTION				No
Perpetual Limited	PPT	96.11%	Poll			No
Primary Health Care Ltd	PRY	99.48%	Poll			No
Qantas Airways Ltd	QAN	98.45%	Poll			No
QBE Insurance Group Ltd	QBE	85.75%	Poll			No
Qube Holdings Ltd	QUB	97.28%	Poll			No
REA Group Ltd	REA	98.91%	Poll			No - NED fee pool 91.20%
Ramsay Health Care Ltd	RHC	94.79%	Poll			Re-elect Bruce Soden 89.34%; performance rights grant to CEO 77.43%; performance rights to Executive Director (Soden) 77.42%
Rio Tinto Ltd	RIO	86.90%	Poll			Receive 2015 Reports 83.97%; disapply pre-emption provisions 79.14%
ResMed Inc	RMD	82.73%	Poll			No
South32 Limited	S32	76.92%	Poll			LTI grant 90.04%
Scentre Group	SCG	97.86%	Poll			No
Seek Ltd	SEK	90.67%	Poll			Grant One Equity Right 87.55%; LTIP 73.40%
Stockland	SGP	99.02%	Poll			No
The Star Entertainment Group Limited	SGR	98.16%	Poll			NED fee pool 73.62%
Sonic Healthcare Ltd	SHL	90.90%	Poll			LTIP 90.47%
Spark Infrastructure Trust	SKI	65.67%	Poll	S		Re-elect Andrew Fay 87.22%; re-elect Douglas McTaggart 84.69%; LTIP grant 65.52%
Sirtex Medical Ltd	SRX	98.49%	SoH			LTIP 85.13%
Santos Ltd	STO	88.93%	Poll			No - LTI grant 93.97%
Suncorp Group Ltd	SUN	94.38%	Poll			No
Sydney Airport	SYD	97.97%	Poll			No
Tabcorp Hldgs Ltd	TAH	77.32%	Poll			Re-elect Justin Milne 74.79%; NED fee pool 75.88%; LTI grant
Transurban Group	TCL	97.14%	Poll			LTI grant 87.98%; NED fee pool 93.66%
Telstra Corp Ltd	TLS	95.78%	Poll			No
TPG Telecom Ltd	TPM	81.57%	Poll			No
Tatts Group Limited	TTS	77.95%	Poll			No
Treasury Wine Estates	TWE	97.98%	Poll			NED fee pool 69.93%
Vicinity Centres	VCX	98.30%	Poll			Re-elect Trevor Gerber 74.64%
Vocus Communications Ltd	VOC	96.68%	Poll			Approve LTIP (ASX LR 7.2 exc 9) 78.69%; grant to Vaughan Breen 77.78%; NED fee pool 84.36%
Westpac Banking Corp	WBC	95.53%	Poll			No
Wesfarmers Ltd	WES	89.91%	Poll			No: LTI grants 94%+
Westfield Corp	WFD	93.94%	Poll			No
Woolworths Ltd	WOW	97.19%	Poll			No
Woodside Petroleum Ltd	WPL	72.41%	Poll	S		No

ASX 100 REMUNERATION REPORT VOTES, AGM HELD IN 2016

TWO STRIKES RULE

This was the fifth full year of the two strikes rule⁹ and while there were more first strikes in the ASX 100 in 2016 than in prior years¹⁰ there has never been a second strike against an ASX 100 company since its inception.

As noted in last year's review, the bulk of companies receiving a strike are outside the ASX 300. Given that most proxy advisers do not extend coverage outside the ASX 300, it is unlikely that proxy adviser voting advice influences these outcomes. Based on my casual observation that remuneration outside the ASX 300 is usually not complex, it is likely that shareholder dissatisfaction with remuneration doesn't explain these strikes. The strike is always a significant event and worth noting. From this year's results there are two initial observations to note. Of the companies receiving a first strike at the 2015 AGM, nine companies did not hold an AGM in 2016. As the table below indicates, seven of the nine are currently in voluntary administration.

COMPANY NAME	ASX CODE	REASONS WHY NO 2016 AGM
AQUAINT CAPITAL LIMITED	ACU	IN VOLUNTARY ADMINISTRATION SINCE 15 JUNE 2016
ARRIUM LTD	ARI	IN VOLUNTARY ADMINISTRATION AND ASIC RELIEF FOR AGM TO BE HELD BY 7 DEC 2018
DIPLOMA GROUP LIMITED	DGX	IN VOLUNTARY ADMINISTRATION SINCE 22 DECEMBER 2016; SHARES SUSPENDED ON ASX SINCE 31 AUGUST 2016. No 2016 AR has been released
HUGHES DRILLING LIMITED	HDX	IN VOLUNTARY ADMINISTRATION SINCE 22 SEPTEMBER 2016; SHARES SUSPENDED SINCE 27 JUNE 2016
MCALLESE GROUP LTD	MCS	IN VOLUNTARY ADMINISTRATION FROM 29 AUGUST 2016; SHARES FIRST SUSPENDED ON 29 FEBRUARY 2016 BUT REINSTATED ON 8 JUNE 2016
PACIFIC BRANDS GROUP	PBG	SCHEME OF ARRANGEMENT WITH HANNES AND REMOVED FROM ASX LIST ON 18 JULY 2016
SEDGMAN LIMITED	SDM	TAKEOVER BY CIMIC GROUP AND REMOVED FROM ASX LIST ON 15 APRIL 2016
SUBZERO GROUP	SZG	IN VOLUNTARY ADMINISTRATION SINCE 12 FEBRUARY 2016; ASIC REPORTING RELIEF FOR 2016 ANNUAL REPORT TO 11 FEBRUARY 2017

COMPANY NAME	ASX CODE	REASONS WHY NO 2016 AGM
VALNEX INDUSTRIES LIMITED	VXL	IN VOLUNTARY ADMINISTRATION SINCE 22 JULY 2016

FIRST STRIKE AGMS IN 2015 WITH NO 2016 AGM

Secondly, eight companies receiving a first strike at the 2015 AGM did not include a conditional Board Spill resolution on the 2016 AGM and I note their details in the table below.

COMPANY NAME	ASX CODE	RRV 16 AGAINST	P OR SOH
AUTHORISED INVESTMENT FUND LIMITED	AIY	0.25	S
GREENPOWER ENERGY LIMITED	GPP	0.14	S
HUNTER HALL GLOBAL VALUE LIMITED	HHV	9.51	S
MAGNETIC RESOURCES	MAU	0.18	S
NAMIBIAN COPPER NL	NCO	0	S
OIL BASINS LIMITED	OBL	16.28	S
RESOURCE GENERATION LTD	RES	2.1	S
WAVENET INTERNATIONAL LIMITED ¹¹	WAL	0	P

NO CBS ON 2016 AGM AGENDA

Six of the eight had a vote by way of show of hands at the 2015 AGM even though the proxies indicated the potential for a strike.

Of the two that received a first strike via a poll at the 2015 AGM (Magnetic Resources and Resource Generation), a section 249D requisitioned general meeting occurred after the 2015 AGM and resulted in a change to the Board. In this sense it could be viewed that there was no need to include a conditional Board Spill resolution because those responsible for signing off the 2015 Directors' Report had left. Yet the conditional Board Spill resolution applies to directors in place when the remuneration report receiving the second strike was signed. It is not immediately apparent why these companies should have not included that resolution on their 2016 AGM agenda.

First strike AGMS 2016

Set out below are the first strike AGMs I detected during 2016. The first table shows the 44 first strikes resulting from a poll vote: the outcome is clear in these instances.

COMPANY NAME	ASX CODE	RRV 16 AGAINST %
1-PAGE	1PG	43.21
AGL ENERGY	AGL	37.17
ALEXIUM INTERNATIONAL GROUP	AJX	39.2
AUSTRALIAN DAIRY FARMS GROUP	AHF	38.55
BELLAMYS AUSTRALIA LIMITED	BAL	27.29
BERKELEY ENERGIA LIMITED	BKY	28.03
BORAL LIMITED	BLD	22.17
BULLETPROOF GROUP	BPF	41.78
CAPITOL HEALTH LTD	CAJ	53.83
CARSALLES.COM LIMITED	CAR	34.79
CHALMERS LTD	CHR	79.08
CMI LIMITED	CMI	33.78
COMMONWEALTH BANK OF AUSTRALIA LTD	CBA	51.01
COVER-MORE GROUP	CVO	70.89
EAST ENERGY RESOURCES LTD	EER	99.77%

COMPANY NAME	ASX CODE	RRV 16 AGAINST %
EMPIRE OIL AND GAS NL	EGO	34.63
ENERJI	EJI	28.58
FIRST GROWTH FUNDS LTD	FGF	49.36
FLEETWOOD CORPORATION LIMITED	FWD	44.16
KEYBRIDGE CAPITAL LTD	KBC	51.36
LANTERN HOTEL GROUP	LTN	52.39
METCASH	MTS	29.78
MINERAL RESOURCES LTD	MIN	49.18
MORTGAGE CHOICE	MOC	79.54
PACIFIC CURRENT GROUP	PAC	84.83
PULSE HEALTH LTD	PHG	30.72
RECCE LIMITED	RCE	82.01
RECKON	RKN	69.35
REDHILL EDUCATION LTD	RDH	34.05
RESAPP HEALTH LIMITED	RAP	26.38
SIMS METAL MANAGEMENT	SGM	31.7
SLATER & GORDON	SGH	45.8
SOVEREIGN GOLD	SOG	33.33
SPARK INFRASTRUCTURE	SKI	34.33
SPECTRUM RARE EARTHS LTD	SPX	28.96
SPOTLESS GROUP	SPO	36.15
SUNBRIDGE GROUP	SBB	64.06
SURFSTITCH GROUP	SRF	31.94
TV2U INTERNATIONAL LTD	TV2	29
UGL LIMITED	UGL	44.12
WELLARD LTD	WLD	56.38
WINMAR RESOURCES LIMITED	WFE	31.24
XPED LTD	XPE	49.67
YOWIE GROUP	YOW	30.97

FIRST STRIKE AGMS BASED ON POLL OUTCOMES

The table below shows the 11 apparent first strikes based on the proxy voting position. For any AGM results I identified that looked 'close', I calculated the proxy for, proxy against and proxy open/discretion position as a percentage of total proxy (the sum of proxy for, against and open/discretion). I included the company in this table only if the RRV against vote was 25% or higher.

In these instances, voting was conducted by a show of hands, so it is possible that all the hands in the room were 'for' the remuneration report.

COMPANY NAME	ASX CODE	RRV 16 AGAINST %
CARPENTARIA EXPLORATION LTD	CAP	29.42
COUNTPLUS LIMITED	CUP	35.1
ENERGY TECHNOLOGIES LTD	EGY	27.72
GLOBAL MASTERS FUND	GFL	52.54
GLOBAL PETROLEUM LIMITED	GBP	30.79
GLOBE METALS & MINING LTD	GBE	94
IMUGENE LIMITED	IMU	37.04
NIUMINCO GROUP LTD	NIU	88.25
PROSPECT RESOURCES	PSC	56.2

COMPANY NAME	ASX CODE	RRV 16 AGAINST %
QUANTUM ENERGY LTD	QTM	94.44
RED SKY ENERGY	ROG	25.49

PROSPECTIVE FIRST STRIKES BASED ON PROXY POSITIONS, 2016

Second strike AGMs 2016

There were 58 two strike AGMs I detected in 2016 and these are indicated by a conditional Board Spill resolution being included on the AGM agenda as a result of a first strike at the previous AGM.

The first group of 43 companies did not receive a second strike. Note the mixture of poll and show of hands voting amongst this group.

COMPANY NAME	ASX CODE	RRV 16 AGAINST %	P OR SOH
3P LEARNING	3PL	0.56	P
ANSELL LIMITED	ANN	1.03	P
AZURE HEALTHCARE LTD	AZV	6.93	S
BOART LONGYEAR	BLY	10.71	P
BRADKEN GROUP	BKN	0.8	S
CARDNO	CDD	6.94	P
CAZALY RESOURCES	CAZ	19.33	S
COMET RESOURCES	CRL	15.65	S
CYCLOPHARM	CYC	0.00	S
DECMIL	DCG	0.99	P
DEEP YELLOW LTD	DYL	1.19	S
DOWNER EDI	DOW	1.02	P
ENHANCED OIL & GAS RECOVERY LTD	EOR	0.8	S
EPHRAIM RESOURCES LIMITED	EPA	21.13	S
GREENLAND MINERALS & ENERGY	GGG	12.44	P
HILLGROVE RESOURCES	HGO	10.66	S
IMPEDIMED LIMITED	IPD	15.22	P
JUSTKAPITAL LTD	JKL	16.07	
KASBAH RESOURCES LTD	KAS	5.65	P
KGL RESOURCES	KGL	0.75	S
KIMBERLEY DIAMONDS LTD	KDL	0.77	P
KULA GOLD	KGD	0.18	S
METALLUM LIMITED	MNE	0.08	P
METGASCO LIMITED	MEL	3.46	P
NEW GUINEA ENERGY	NGE	7.37	P
OILEX LIMITED	OEX	3.48	S
PANCONTINENTAL OIL & GAS NL	PCL	1.1	S
PHOSPHAGENICS	POH	22.8	P
PREMIER INVESTMENTS	PMV	2.94	P
PRIMARY GOLD LIMITED	PGO	1.79	S
PRIME MEDIA GROUP	PRT	6.18	P
RICHFIELD INTERNATIONAL	RIS	0.69	P
TAP OIL	TAP	7.21	P

COMPANY NAME	ASX CODE	RRV 16 AGAINST %	P OR SOH
TASFOODS LIMITED (WAS ONCARD ASX:ONC)	TFL	11.77	S
TAWANA RESOURCES	TAW	0.06	S
TIGER RESOURCES	TGS	1.01	P
TIMPETRA RESOURCES	TPR	0	S
TOMIZONE LIMITED	TOM	0.79	P
TRANSERV ENERGY LIMITED	TSV	17	P
TROY RESOURCES LIMITED	TRY	17.01	P
VILLAGE ROADSHOW	VRL	17.39	P
WEBJET LIMITED	WEB	3.07	P

COMPANIES AVOIDING A SECOND STRIKE AT 2016 AGM

The next group of 14 companies are those I detected as receiving a second strike at the 2016 AGM. Eleven of the companies avoided a second strike, including Globe International with 49.47% for on a poll. The Board Spill resolution was passed at Royalco Resources, Ambertech and Zeus Resources.

COMPANY NAME	ASX CODE	RRV 16 AGAINST	P OR SOH	BS16 FOR %	P OR SOH
LIQUEFIED NATURAL GAS	LNG	26.88	P	0.99	P
JERVOIS MINING LTD	JRV	27.74	P	Not put to AGM	NA
ESERV GLOBAL LIMITED	ESV	58.86	S	1.11	S
QUEST MINERALS LIMITED	QNL	52.05	S	1.56	S
AUSTRALIAN ETHICAL INVESTMENTS	AEF	29.96	P	19.67	P
FLINDERS MINES LTD	FMS	35.01	P	34.75	P
PHOSPHATE AUSTRALIA	POZ	35.12	P	35	P
CAPE LAMBERT RESOURCES LTD	CFE	34.55	P	36.47	P
BOOM LOGISTICS	BOL	36.37	P	36.53	P
MACMAHON HOLDINGS LTD	MAH	38.36	P	38.38	P
TEMPLETON GROWTH FUND	TGG	42.68	P	43.99	
GLOBE INTERNATIONAL LIMITED	GLB	61.18	P	49.47	P
ROYALCO RESOURCES LTD	RCO	61	P	61	P
AMBERTECH LTD	AMO	99.68	S	81.57	S
ZEUS RESOURCES LTD	ZEU	99.81	P	99.97	

COMPANIES RECEIVING A SECOND STRIKE AT THE 2016 AGM

Ambertech's Board Spill meeting is scheduled for 12 January 2017, while Zeus Resources will hold its Board Spill meeting on 8 February 2017.

The situation is more complex at Royalco Resources, with 19.99% shareholder High Peak Resources confirming to the market that it had voted for the second strike and nominating two candidates for appointment as directors,¹² while 18.6% shareholder Noontide Investments has nominated a candidate for election to the Board. However other events are also likely to be relevant to any outcome: Royalco Resources is currently subject to an off market takeover by Fitzroy River Corporation Ltd (ASX:FZR) made on 12 December 2016 (following its earlier on-market takeover bid of 19 October 2016). The Board has recommended shareholders accept the latest offer. No date has been set for the Board Spill meeting as at 28 December 2016.

One further company warrants separate mention: Jervois Mining. Already we have seen how what should have been two strike AGMs at Magnetic Resources and Resources Generation omitted the conditional Board Spill resolution from their 2016 AGM agenda. Both companies had their Boards reconfigured following the first strike courtesy of shareholders using their powers under section 249D to requisition the Board to call a meeting of members, with section 203D resolutions to remove one or more of the existing directors and replace them with new directors.

Jervois Mining provides a different case example of when shareholders could turn to section 249D/section 203D to accomplish what the two strikes regime might eventually achieve. However the shareholders in question moved just before the 2016 AGM and relying on a NSW Supreme Court orders of 23 November 2016¹³ to allow the EGM to go ahead notwithstanding failure to comply with the notice periods under section 203D. With Dr R P Austin appointed as Chair of the EGM, three NEDs were removed and three new NEDs elected. Support for each resolution was at 55% poll for, 45% poll against, so close-ish.

Two strike board spill meetings held in 2016¹⁴

Following second strikes during the main 2015 AGM season, there were three Board Spill meetings held in the first five months of 2016, with the fourth company **Castle Minerals (ASX:CDT)** has not held a spill meeting but as a result of discussions with its largest shareholder Azumah Resources Ltd had a complete change in the Board without a meeting.

Draig Resources (ASX:DRG) – Wednesday 24 February 2016 – Two directors re-elected – combined shareholders of 14.21% of the issued capital couldn't be voted at the AGM on the remuneration resolutions but could be voted at this Spill Meeting.

Globe Metals & Mining (ASX:GBE) – Wednesday 24 February 2016 – Four current non-executive directors re-elected and three individuals seeking election failed to be elected. Poll voting results were around 68.63% for the directors re-elected and the same portion against the individuals seeking election. The results mirrored the outcomes at the 2015 AGM.

Samson Oil & Gas (ASX:SSN) – Wednesday 27 January 2016 – three of four directors were elected, with Keith Skipper failing to be elected. I covered this meeting in the January 2016 note and include some further comments in this report from that note.¹⁵

I note Globe Metals & Mining received a first strike at its 2016 AGM, while the remaining three companies had no problems with this year's remuneration report resolution.

Reasons for the strike

There are many reasons why a company receives a first strike. Looking at the eight companies in the ASX 100, I summarise in the table below what I suggest are the reasons behind the strike.

COMPANY	RRV 16 AGAINST	SUGGESTED REASONS
AGL Energy	37%	Statutory versus underlying numbers: FY16 statutory net loss not reflected in short term incentive (STI) arrangements; inadequate communication
Boral	26%	A good year for remuneration: close result indicates many shareholders were happy enough
Carsales.com	54%	Executives' fixed pay increased by double-digit amounts; variable remuneration too complex for a company of this size
Commonwealth Bank	50.9%	General dissatisfaction: not just about remuneration. New LTI vesting linked to 'culture improvement' measurements (withdrawn just prior to AGM)
CSL	26%	Lack of disclosure on incentive scheme changes and seemingly routine increases to fixed remuneration
Goodman Group	39.2%	Larger than usual LTI grant not to put to shareholders before grant made (unlike previous years)
Spark Infrastructure	34.3%	Performance and remuneration. The utility almost incurred a strike last year so unhappiness was lurking
Woodside Petroleum	27.6%	Bonus payments do not reflect FY15 statutory net profit decline to \$US26 m from \$US2.414 billion previously

ASX 100 FIRST STRIKES: WHY?

Read through these reasons and you'll quickly come to the realisation that these 'sins' aren't restricted to this small cohort of ASX 100 entities.

Take Carsales.com as an example (and recall that KMP shareholdings are excluded from voting on the remuneration report): the largest single fixed remuneration increase in 2016 in the ASX 100 was that paid to Hamish Douglass at Magellan Financial Group when it more than doubled. I note Magellan Financial Group's remuneration report passed on a poll, with 99.20% for its adoption.¹⁶

As for Commonwealth Bank of Australia: its remuneration schemes as presented for 2016 (so excluding the changes to the 2017 LTI scheme) are not vastly different from those of the three other Big Four Banks. All use underlying financial performance measures and include non-financial performance measures in the assessment of short term performance for the annual bonus. The other three are all currently facing court action by ASIC in relation to their alleged role in manipulating the bank bill swap rate. All four have some work to do in relation to ASIC's findings in its *Financial Advice: Fees for No Service Report*.¹⁷

A suggestion that CSL is moving towards US-style remuneration is not restricted to that entity alone: Macquarie Group is a clear example of you might describe as 'international' remuneration practices. Its remuneration report was well supported at this year's AGM.

Interpreting the size of the strike

I usually caution against paying too much heed to the size of the strike because in companies with KMP substantial shareholders the outcome can be exaggerated (as this capital cannot vote on the resolution). In a widely held company such as CBA however, the size of the strike is telling. It can be seen

that Boral, CSL and Woodside Petroleum received strikes from 26%-28% and I would interpret this outcome as indicating not all shareholders were unhappy with remuneration. This would be reflected in proxy adviser advice for these companies and indicates those Boards will have an 'interesting' time working through the different messages on what's wrong and what needs to change.

Outside of the ASX 100, there are several companies receiving a strike that would be well known to most readers: 1-Page, Bellamys Australia, Cover-More Group, Metcash, Sims Metal Management, Slater & Gordon, Spotless Group, Surfstitch Group, UGL. A general theme of disappointed expectations regarding company performance could sum up these outcomes.

Warning shots

So what distinguishes those companies receiving a strike from those that manage to avoid that outcome by restricting the no vote to what could be described as a warning shot?

Firstly take a look at the list of ASX 200 entities with a vote of more than 10% against the remuneration report.

Company Name	ASX Code	ASX 100	RRV 16 AGAINST	P OR SOH
Australia & New Zealand Banking Group Ltd	ANZ	X	10.01%	P
Wesfarmers Limited	WES	X	10.09%	P
Regis Healthcare Limited	REG		10.13%	P
Fortescue Metals Group Ltd	FMG	X	10.54%	P
Brickworks Limited	BKW		10.93%	P
Santos Limited	STO	X	11.07%	P
Macquarie Atlas Roads Group	MQA		11.62%	P
Seven West Media Limited	SWM		11.98%	P
Henderson Group PLC	HGG	X	12.82%	P
WorleyParsons Limited	WOR		13.06%	P
Rio Tinto Limited	RIO	X	13.10%	P
Domino's Pizza Enterprises Limited	DMP	X	13.21%	P
Automotive Holdings Group Limited	AHG		13.36%	P
Challenger Limited	CGF	X	13.75%	P
Evolution Mining Limited	EVN		14.13%	S
QBE Insurance Group Limited	QBE	X	14.25%	P
Greencross Limited	GXL		14.84%	P
Galaxy Resources Limited	GXY		15.38%	S
CIMIC Group Limited	CIM	X	15.48%	P
Myer Holdings Limited	MYR		15.82%	P
ResMed Inc.	RMD	X	17.27%	P
Bapcor Limited	BAP		18.26%	P
TPG Telecom Limited	TPM	X	18.43%	P
Crown Resorts Limited	CWN	X	18.48%	P
Nine Entertainment Co. Holdings Limited	NEC		21.45%	P
James Hardie Industries Plc	JHX	X	21.65%	P
Tatts Group Limited	TTS	X	22.05%	P
Tabcorp Holdings Limited	TAH	X	22.68%	P
South32 Limited	S32	X	23.08%	P

ASX 200 ENTITIES WITH VOTE AGAINST OF > 10% AT 2016 AGM

Defining a warning shot of a vote of more than 15% against the remuneration report, the entities from Galaxy Resources to South32 in this table could interpret 2016's remuneration report vote as a sign of a need to work with shareholders to improve the outcome at next year's AGM.

Some other companies receiving a warning shot courtesy of the 2016 AGM vote on the remuneration report include

- Australian Natural Proteins (ASX:AHZ) with 20.6% poll votes against
- Carnarvon Petroleum (ASX:CVN) with 23.75% poll votes against
- Coventry Group (ASX:CYG) with 22.86% poll against
- Dicker Data (ASX:DDR) with 21.17% poll against
- Lynas Corporation (ASX:LYC) with 22.52% poll votes against
- NAOS Absolute Opportunities (ASX:NAC) with 24.71% poll against
- Regeneus (ASX:RGS) with 24.19% poll against
- Shine Corporate (ASX:SHY) with 24.89% poll against

OTHER RESOLUTIONS ATTRACTING SHAREHOLDER INTEREST

The key resolutions to watch for are issues of securities to directors, although the NED fee pool and director elections were a focus for dissent votes at 2016 AGMs.

ISSUES OF SECURITIES TO DIRECTORS

As noted in the early discussion on the ASX 100 outcomes, several companies attracted shareholder interest for grants to their executive directors.

Voluntarily withdrawing the resolution is the step before the resolution is rejected by shareholders and is always a strategy for shareholders in addition to voting against these resolutions. This strategy was used at Commonwealth Bank of Australia, but also at **Evolution Mining** (the proposed grant of retention securities to Jake Klein).

Voluntarily withdrawing these resolutions wasn't used at **Ardent Leisure (ASX:ADD)** when that outcome would have been appropriate, given the deaths at Dreamworld prior to the AGM.

There were some low votes this year for this resolution and some examples outside the ASX 100 include

Ambertech (ASX:AMO) with the issue of options to Peter Amos passing on a show of hands, with proxies running at 52.08% for, 47.91% against and 0.01% discretion

Bellamys Australia (ASX:BAL) with 67.23% poll votes for the LTI grant to the MD/CEO

Slater & Gordon (ASX:SGH) with the two grants to the MD/CEO receiving poll votes of 71.80% and 67.74%

Grants to the MD/CEO Claro at **Sims Metal Management (ASX:SGM)** with the LTIP receiving 66.24% poll for, while the RSU GRANT received 53.55% poll votes for

Babcor (ASX:BAP) where the LTIP grant to Darryl Abotomy failed to pass on a poll

Blue Energy (ASX:BUL) where two resolutions to grant rights and options to John Elice-Flint passed on shows of hands, but with 20.29% and 19.95% proxy against and only around 1% open/discretion instructions

Metcash (ASX:MTS) with 81.73% poll votes for the LTIP grant to the MD/CEO

Nine Entertainment Co (ASX:NEC) with 80.78% poll votes for the LTIP grant to the MD/CEO

Pact Group Holdings (ASX:PGH) with 81.56% poll votes for the initial grant of performance rights to the CEO

Spotless Group (ASX:SPO) with 63.79% poll votes for the LTIP grant to the MD/CEO

Syrah Resources (ASX:SYR) with the grants to Tolga Mumova passing on shows of hands with 32.1% proxy against the issue of options and 28.12% proxy against the issue of shares

Worley Parson (ASX:WOR) with the grant of share price performance rights to the MD/CEO receiving 75.26% poll votes for.

NED FEE POOL LIMITS

This resolution is one I typically recommend voting for but the issue sometimes relates to why this increase now? Outside the ASX 100, companies attracting shareholder attention to the ASX Listing Rule 10.17 resolution include

Breville Group (ASX:BRG) – passed on a show of hands, but with 78.49% proxy votes for and 21.29% proxy votes against

Clean Seas Tuna (ASX:CSS) with 51.17% poll votes for

Retail Food Group (ASX:RFG) – passed on a show of hands, but with 76.25% proxy for and 17.62% proxy against

Sovereign Group (ASX:SOC) with 64.69% poll votes for

Technology One (ASX:TNE) with 85.77% poll votes for

DIRECTOR ELECTIONS

These resolutions also attracted shareholder attention during 2016 and outside the ASX 100, companies I spotted with noticeable dissent on these resolutions include

Bega Cheese (ASX:BGA) with both Max Roberts and Richard Platts elected on shows of hands but receiving 34.49% and 29.89% proxies against respectively

Brickworks (ASX:BKW) with Michael Millner re-elected with 75.28% poll votes for and J Webster re-elected with 74.8% poll votes for

Cabcharge Australia (ASX:CAB) with Donald McMichael re-elected with 54.37% poll for.

Crowell Property Group (ASX:CMW) with Marc Wainer re-elected on a show of hands, with 83.84% proxy for and 13.17% proxy against.

EQT Holdings (ASX:EQT) with 78.13% poll for the election of Anne Maree O'Donnell

Fantastic Holdings (ASX:FAN), with Julian Tertini re-elected on a show of hands, with proxies lodged prior to the AGM of 70.8% for, 29.05% against, with 0.15% open/discretion

Galaxy Resources (ASX:GXY) with Charles Whitfield re-elected on a show of hands, but with proxies of 55.12% for and 44.31% against

McMillan Shakespeare (ASX:MMS) with John Bennetts re-elected with 76.53% poll for

Mineral Resources (ASX:MIN) with Peter Wade re-elected on 61.25% poll votes for

Mortgage Choice (ASX:MOC) with Rodney Higgins re-elected with 64.99% poll for and Deborah Ralson re-elected with 77.11% poll for

Saracen Minerals Holdings (ASX:SAR) with Martin Reed re-elected on a show of hands; proxies running at 71.74% for and 28% against

Super Retail Group (ASX:SUL) with John Skippen re-elected on a show of hands, with 55.69% proxies for, 43.76% proxies against.

LAW REFORM FOR EXECUTIVE REMUNERATION?

In terms of reform, any move towards reform of the 'rules' for executive remuneration shouldn't just be about what is appropriate for the ASX 100 but rather what would suit the variety of companies required to prepare a remuneration report and conduct a vote annually on that report.

One simple law reform that could be made is to compel voting by way of a poll for the remuneration report (and for other special resolutions), removing the option for the Chair of the meeting to not call a poll under the circumstances.

A second reform could be around the circumstances where relief could be sought from including a CBS on the AGM agenda, even though a first strike occurred at the prior year's AGM.

Remuneration report and AGM meeting disclosures are always important. I suggest the remuneration report disclosures are not read by many shareholders so companies sometimes seek to abbreviate the remuneration arrangements via a shareholder review or included within the AGM meeting materials itself. Companies can encourage shareholders to read the full remuneration report by making it readable.

The complexity of the remuneration arrangements will influence the nature of the disclosures required to accurately convey the remuneration policy and outcomes. Should a non-executive director find reading his or her company's remuneration report challenging, going back to 'first principles' on the actual remuneration policies and practices, removing any complexity, is likely to lead to less complex reporting.

I'm not so sure a wholesale revision of the disclosure rules is the required fix at this point in time. Rather it is about companies taking a more critical look at their actual disclosures. Many are repetitive because they firstly disclose the policy in detail across all the remuneration items, then repeat large parts of that in disclosing the actual outcomes for the year. The policy could be summarised in a one page table and kept at a general level without being bland (by bland I mean they could be about any company, not the actual company making the disclosure).

The actuals will require more disclosure and I personally prefer to see more information on the actuals. Some companies fail to give meaningful information about their actual schemes, such as the level of performance vis-à-vis the targets set at the start of the year.

Related to this is the practice of disclosing a potted version of the company's results and the remuneration report in the AGM materials. It has to be accurate in the sense of not omitting relevant information and the performance outcomes leading to the award of \$x rather than \$y or \$z is, to my mind, always relevant.

SECTION 249D: A BOARD SPILL BY ANY OTHER NAME WOULD SMELL AS SWEET...AND BE AS EFFECTIVE

At the time of the 2011 reforms introducing the two strikes rule, I suggested in a submission to Treasury that shareholders may not want to wait until the second strike to bring on a Board spill when they could achieve a change to the Board's configuration more speedily via section 249D and section 203D.¹⁸

When I looked at responses to the first strike in 2013¹⁹ and 2014, I was struck by the number of companies where a section 249D requisitioned meeting had occurred after the first strike and before the next year's AGM. It may prove to be a useful strategy for shareholders who want change and cannot wait for the slow burn strategy of the second strike, Board spill resolution and Board spill meeting.

WHAT'S AHEAD FOR 2017?

At the time of writing this report (late December 2016), the issues in the business news include some of the culture issues I mentioned earlier and I expect corporate culture will be a big theme for 2017.

How culture will translate into remuneration decisions by companies is not so simple, particularly in light of shareholders' response to CBA's attempts via its proposed LTIP grant to the MD/CEO. One way to see the impact of culture on remuneration is to check the malus adjustment and clawback policies to see if they are broad enough to deal with reputational hits, not just financial restatements. Drilling down into the non-financial components of (typically) the short term incentive schemes for how culture is recognised in these schemes is also worth considering.

Perhaps more pertinently, how will shareholders go about the task of assessing culture? It could be by way of a negative screen but, even there, it is still difficult to pick up those small number of factors that differentiate between 'good' and 'bad' culture. Alternatively it could be looking for mismatches between the rhetoric and the reality of diversity amongst the executive team and the Board.

I also expect to see some pressure for law reform in light of the large numbers of strikes against the ASX 100 this year, but coming from the corporate sector. Should this prove to be the case, my wishlist would be around better disclosures of actual performance measures so I can understand how achieving x resulted in \$y. As I mentioned earlier, my view is that it is not so much the regulatory framework, but rather overly complex remuneration schemes, that drive the current disclosure practices we see. I've mentioned this previously on the website: the Lab projects run by the UK's Financial Reporting Council are a useful model. They rely upon voluntary participation by issuers and investors but it's not a bad approach to road test reforms in this way before mandating changes.

Other areas for law reform might arise as a result of the [whistle-blower protections consultation](#) currently underway, or as a result of the findings of a number of Federal Parliamentary inquiries reinstated following the 2 July 2016 election – including Criminal, Civil and Administrative penalties for white collar crime and foreign bribery. Carbon risk disclosure might not be viewed by the current government as equally important, although I note globally this month's recommendations from the [Task Force on Climate-related Financial Disclosures](#) indicates there is broader interest in this issue.

Of course law reform in these areas might have to take a back seat to political imperatives for law reform in other areas. These imperatives are both domestic and global.

Another area that might attract further interest domestically is the impact of the two strikes rule on deliberations within the remit of the Takeovers Panel. As noted in the earlier discussion, a number of companies receiving a first strike go onto to have a change in Board composition, either via a subsequent section 249D requisitioned meeting, or as part of the strategy for managing the dissent that has come to public attention via the strike.

As part of the month ahead in meetings notes compiled during 2016, there was a move towards using the equivalent provisions to bring about changes to the responsible entity in several listed funds: see the [September 2016 note](#) in particular on this. I don't follow this sector but it was something that caught my eye several times during 2016.

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¹ For example, Simon McKeon's re-election resolution was withdrawn from the AGM agenda at AMP would be viewed differently than withdrawing the termination benefits resolution at Magellan Financial Group.

² For these purposes I am taking the ASX 100 after the December 2016 quarterly rebalance.

³ Goodman Group did not include a resolution seeking shareholder approval for the LTI grants to the executive directors as it usually does. This was one of the reasons for the vote against the remuneration report. A similar strategy was used at Goodman Group at the 2010 AGM in response to low support for the LTI grants at the 2009 AGM. The LTI grants attracted poll support at the 2015 AGM, including 60.26% poll for the MD/CEO Greg Goodman and around 69% for the other executive directors.

⁴ Remuneration Report Vote at the calendar year 2016 AGM.

⁵ No second strike.

⁶ Conditional Board Spill resolution. While AusNet received a first strike at the 2015 AGM and acknowledged this in its 2015 AGM results announcement, the 2016 AGM agenda did not include a conditional Board Spill resolution: the change from trust to company was said by AusNet to justify its exclusion.

⁷ See Mini AGM Season Review dated 13 June 2016.

⁸ In the case of Orica Limited, the December 2016 AGM is shown. The January 2016 AGM remuneration report also passed on a poll, with 91.70% for.

⁹ By this I mean the two strikes rule applied to all AGMs held in the year.

¹⁰ This is a provisional list but from what I can see, the first strikes in the ASX 100 by year were: 2015 = 4 (ALQ, ANN, AST, DOW); 2014 = 3 (HVN, NCM, PRY); 2013 = 4 (AWC, AZJ, DJS, FGE); 2012 = 3 (COH, FXJ, LLC,); 2011 = 4 (BSL, CWN, PPT, UGL)

¹¹ Wavenet International has not disclosed its 2016 AGM Notice of Meeting via the ASX Announcements Platform and so I have shown it as not including a CBS.

¹² Refer to its ASX announcement of 30 November 2016.

¹³ Those interested in the NSW Supreme Court decision the medium neutral citation is [2016] NSWSC 1650.

¹⁴ A two strike Board Spill meeting arises as a result of shareholders passing the Board Spill resolution at the AGM. This is to distinguish these meetings from shareholder-requisitioned meetings to spill the Board, relying on section

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203D of the *Corporations Act 2001* (Cth) (or a provision in the company's constitution).

¹⁵ Four directors sought election at this general meeting, although not the current Board Chair, Victor Rudenno, nor De Ann Craig, both of whom retired at the conclusion of the spill meeting. Neil Fearis was appointed on 5 November 2015 and is not subject to the Board Spill resolution as he joined the Board after the 2015 Directors' Report (containing the remuneration report) was signed. However his stated intention is to retire at the conclusion of this general meeting subject only to the statutory minimum number of NEDs being appointed to the Board. With MD Terence Barr exempt from the resolutions a minimum of two of the four directors below, including one Australian-based director, will need to be elected in order for Mr Fearis to retire from the Board. Keith Skipper wasn't re-elected by shareholders at the 2015 AGM on 29 October 2015. Denis Rakich is the current company secretary, a position he has held for 17 years. He would not be considered as an independent director but if all of the other directors were elected, a majority of the Board would be independent. The other two persons seeking election are not currently directors and, as noted in my review of two strike AGMs in 2015, the 2015 Annual Report indicates there were no substantial shareholders as at 14 September 2015. No substantial shareholder notices have been lodged since that time. A low percentage of capital was voted on the remuneration report (around 16%).

¹⁶ The termination benefits resolution was withdrawn prior to the AGM.

¹⁷ See [this note](#).

¹⁸ Department of Treasury (Cth), Consultation on the Exposure Draft of the *Corporations Amendment (Improving Accountability on Executive Remuneration) Bill 2011* (Cth), (January 2011).

¹⁹ From the [two strike AGMs 2013 note](#). "In others, the vote appears to be yet another episode in a fractious relationship between the Board and particular shareholders. A key to this is the use of section 249D notices to requisition a meeting of members, with the requisitioners proposing some or all of the current directors be removed, with an alternative candidate or candidates proposed. Avalon Minerals Limited (ASX Code: AVI) and Queensland Mining Corporation (ASX Code: QMN) are two examples that come to mind. A more recent example is Syndicated Metals Limited (ASX Code: SMD).

Since the first strike occurred, several companies made numerous changes made to the company's Board or senior management team: see for example Astro Resources NL (ASX Code: ARO), Australasian Wealth Management Limited (ASX Code: AWK), Baru Resources Limited (ASX Code: BAC), Draig Resources Limited (ASX Code: DRM)."