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ANNUAL REPORTING AND AGMs 2016

WHAT'S MARKET PRACTICE?

Insights and trends from the 2016 reporting season

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INTRODUCTION

Against a backdrop of market uncertainties, the 2016 reporting season has proceeded relatively smoothly and notably has seen a significant development in the use of technology with the UK's first entirely electronic AGM. There is no room for complacency, however, as investors continue to focus on effective board composition, executive remuneration and transparency, particularly in relation to risk management and on-going viability. Well written "connected" annual reports and accounts, which provide effective links between strategy, KPIs, risk and remuneration, also remain a primary focus.

Many companies have been considering the risks and uncertainties associated with Brexit and we are beginning to see companies include specific disclosures in their annual reports relating to the implications that leaving the EU may (or will) have on their businesses in the longer-term.

Recent corporate governance failings have heightened the focus on boardroom behaviour and, in the wake of commitments from the Prime Minister to overhaul corporate governance, the House of Commons Business, Innovation and Skills Select Committee has launched an inquiry focussing on executive pay, directors' duties and the composition of boardrooms, including worker representation and gender balance in executive positions¹.

Corporate culture has become a hot topic. In July this year, the Financial Reporting Council (FRC) published the results of a study exploring the relationship between corporate culture and long-term business success in the UK². The report is designed to stimulate thinking around the role of boards in shaping, monitoring and overseeing culture. The FRC has stated that it will be monitoring reporting on culture by companies and investors during 2017, although it remains to be seen how boards will adhere to this. But a word of warning:

“

It is vital that companies don't just treat culture as a reporting buzzword to be mentioned in their ARA, but see it as an area for action which their reporting appropriately reflects³.

”

Based on the information contained in Practical Law's *What's Market*, this report looks at key trends in relation to certain aspects of narrative reporting, resolutions proposed during the 2016 AGM season and voting results. It also highlights some of the new reporting developments that companies will need to consider for 2017.

For the purposes of this report, we have reviewed the notices of AGM and annual reports of the FTSE 350 premium equity commercial companies, which can be accessed from *What's Market: AGMs FTSE 350: 2016*.

1 See *Legal update, Corporate governance: Commons committee inquiry on corporate governance*, 16 September 2016.

2 See *Legal update, Corporate governance: FRC report on corporate culture and the role of boards*, 20 July 2016.

3 *EY, Annual reporting in 2015: evolving communication in a changing world*, September 2016.

NARRATIVE REPORTING

Apart from the section on board composition, which covers all FTSE 100 companies, this part of the report covers 299 FTSE 350 premium equity commercial companies that published their notice of AGM between 30 October 2015 and 28 October 2016, and held, or will hold, their AGM in 2016 (99 FTSE 100 companies and 200 FTSE 250 companies).

BOARD COMPOSITION OF FTSE 100 COMPANIES

Board composition continues to be an important issue for investors, who believe that the expertise, experience and diversity of perspective in the boardroom play a more critical role than ever in ensuring effective leadership. Whilst gender diversity remains an area of focus, it seems that most companies are looking at diversity in the wider sense, especially those companies which are geographically diverse.

Succession planning remains high on the boardroom agenda as does the increasing importance of the role of the nomination committee. In May this year, the FRC issued a feedback statement on its discussion paper on UK board succession:

Sir Win Bischoff
FRC Chairman

“

Companies which plan ahead effectively for board renewal are more likely to achieve a better combination of diverse skills and experience needed for long-term success. The nomination committee should also consider its role in developing the talent pipeline within the company⁴.

”

It is apparent from disclosures made during this reporting season that the majority of companies are recognising the importance of succession planning and its relevance in achieving long-term success. It once again features as an area for continued focus in a number of board evaluation disclosures (see [Board evaluation](#) below).

Composition and average size of boards

What's Market has analysed the composition of boards of the FTSE 100 companies as at 14 October 2016. As at that date, the FTSE 100 boards comprised a total of 1,061 directors (compared to 1,099 as at 16 October 2015). Our analysis indicates that the decrease in the number of directors on FTSE 100 boards this year is largely as a result of the composition of the boards of the nine companies that have moved into the FTSE 100 during the last 12 months.

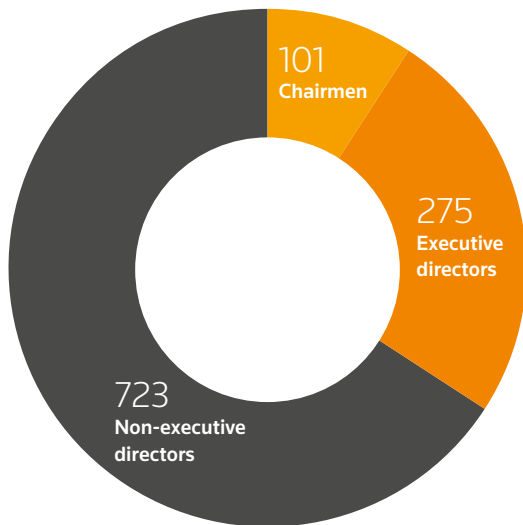
The average size of a FTSE 100 board, including the chairman, was 11 directors (which is the same as 2015), with the number of directors on each board ranging from seven to 25.

Further analysis of the FTSE 100 board composition is shown in the following graphs. For clarification purposes, the board of Mondi plc has two non-executive directors acting as joint chairman.

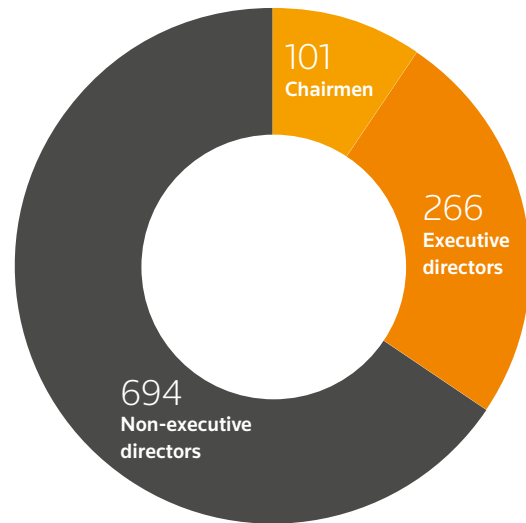
⁴ FRC press release, *Succession planning should be aligned to company strategy*, dated 23 May 2016.

Composition of FTSE 100 boards

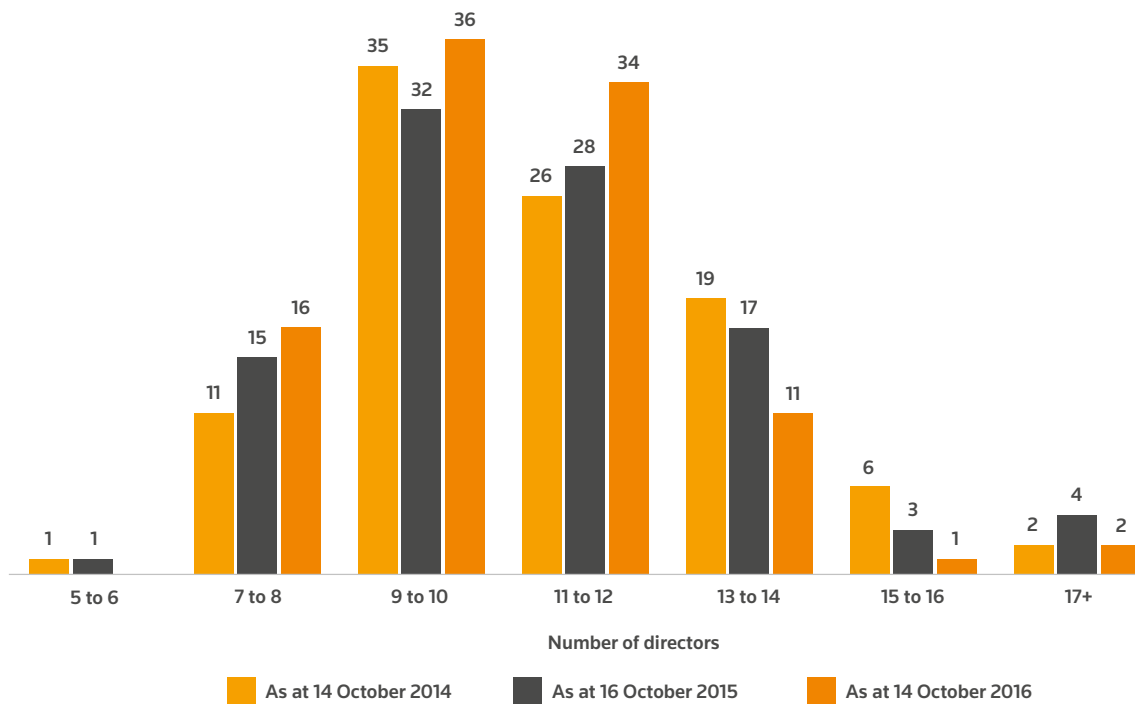
As at 16 October 2015



As at 14 October 2016

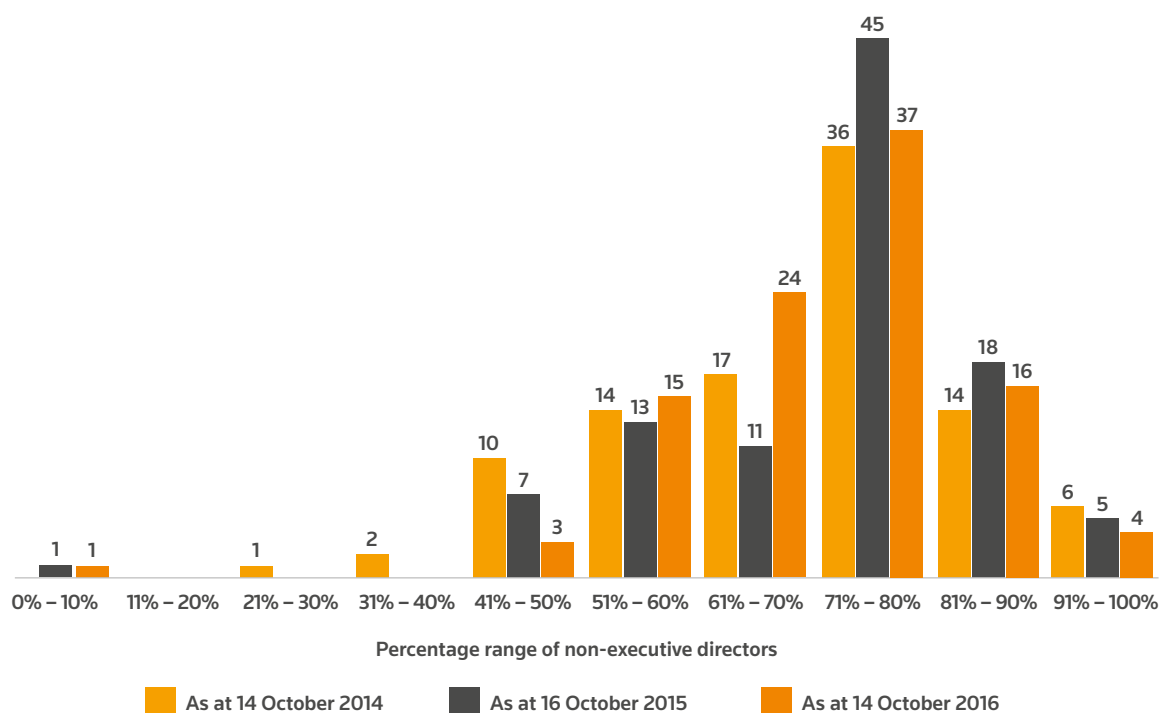


Number of directors on FTSE 100 boards (including chairman)



The percentage of non-executive directors on FTSE 100 boards ranges from 0% to 100%, with the board of one company being comprised solely of executive directors and the boards of two companies being comprised solely of non-executive directors.

Percentage range of non-executive directors on FTSE 100 boards (excluding chairman)



It is interesting to note that the number of FTSE 100 companies whose boards are comprised of more than 70% non-executive directors has fallen this year (57 companies as at 14 October 2016 compared to 68 as at 16 October 2015). However, the number of companies whose boards are comprised of between 61% and 70% non-executive directors has more than doubled.

Women on boards

What's Market continues to monitor the progress made by FTSE 100 companies in achieving at least 25% female representation in their boardrooms as recommended by Lord Davies in his report "Women on boards" published in February 2011. Five years on the number of companies with at least 25% women on their boards has more than doubled and there are no longer any all-male boards in the FTSE 100.

However, the pace of change has slowed since 2012 with the number of new appointments going to women in the six months between September 2015 and March 2016 being the lowest since September 2011⁵. Furthermore, the number of women holding executive directorships is relatively low and, following publication by Lord Davies of his final report in October 2015⁶, it is becoming apparent that more needs to be done to ensure women progress through the executive pipeline in order to reach and sustain Lord Davies' recommended target of 33% female representation on boards by 2020.

⁵ Cranfield University School of Management: The female FTSE board report 2016.

⁶ *Women on Boards Davies Review: five year summary October 2015, published 29 October 2015.*

In July this year, BIS⁷ confirmed that Sir Philip Hampton (chair of GlaxoSmithKline plc) and Dame Helen Alexander (chair of UBM plc) will be undertaking an independent review on improving female representation at executive level in FTSE 350 companies and raising the target to 33% of women on boards by 2020, as recommended by Lord Davies in his final report⁸.

Sir Philip Hampton
Chair of GlaxoSmithKline plc

“

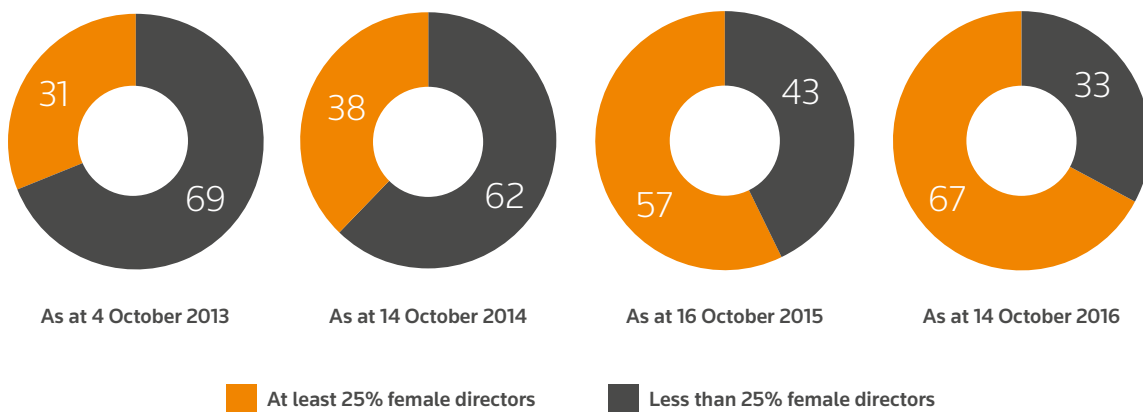
“It is clear that gender balance on FTSE boards has undergone a dramatic shift in recent years and this progress continues. However, we must significantly increase the number of women in senior leadership roles if we are to harness the skills of women for the benefit of business and the UK economy.

”

FTSE 100: Companies with at least 25% female directors

Using data analysed by What’s Market as at 14 October 2016, 67 FTSE 100 companies had at least 25% female directors on their boards, representing a 116% increase in the number of FTSE 100 companies that had this level of female representation in their boardrooms in 2013.

Number of FTSE 100 boards that have at least 25% female directors



Of the 67 FTSE 100 companies that have at least 25% female representation on their boards, the companies with the highest percentage of female directors are Merlin Entertainments plc, Severn Trent Plc and Kingfisher plc with 44% each. Unilever PLC has 43% and Admiral Group plc, Next plc and Whitbread PLC have 40% female representation on their boards.

Of the 33 FTSE 100 companies that did not reach 25% female representation in the boardroom, 26 of those companies would have achieved this target with the appointment of one more female to their board.

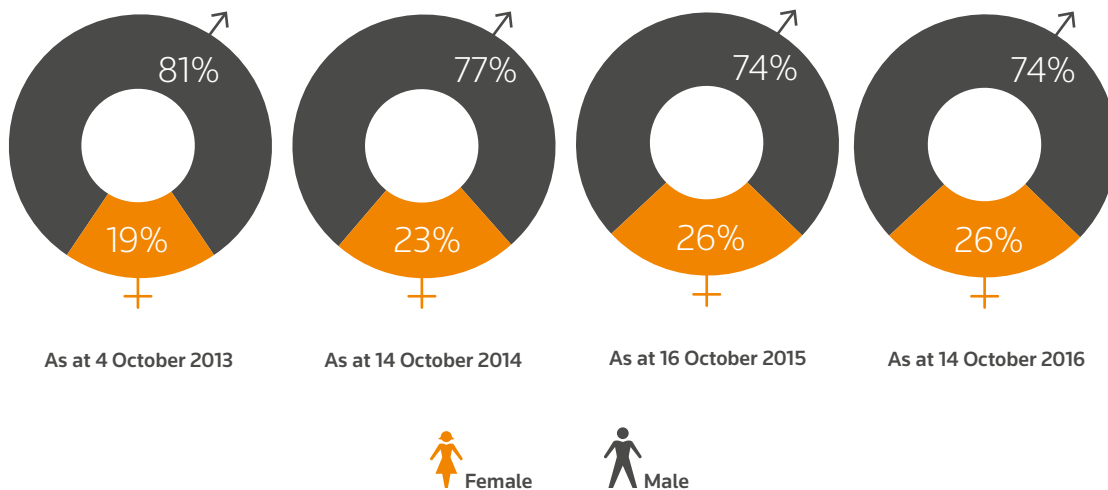
⁷ The Department for Business Innovations and Skills (BIS), which became the Department for Business, Energy and Industrial Strategy in July 2016.

⁸ *Press release issued by the Government Equalities Office, Department for Business, Innovation and Skills “Rallying call for female boost in business and the boardroom”, published 7 July 2016.*

FTSE 100: Female directorships

As at 14 October 2016, there were 1,061 board positions in the FTSE 100. As illustrated by the following graphs, 281 (26%) of these board positions were held by women. This percentage is consistent with our findings as at 16 October 2015. Of the 281 female directorships, 89% were non-executive positions, which is comparable to 2014 and 2015.

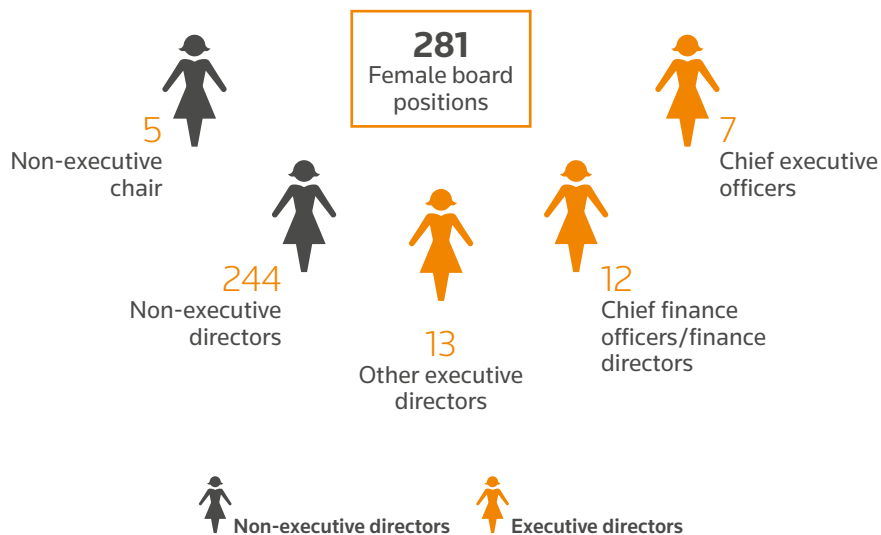
Percentage of female directors on FTSE 100 boards



From our analysis of the 281 female directors on FTSE 100 boards, What's Market has determined that 32 hold an executive position. This represents 12% of the 266 executive positions held across the FTSE 100.

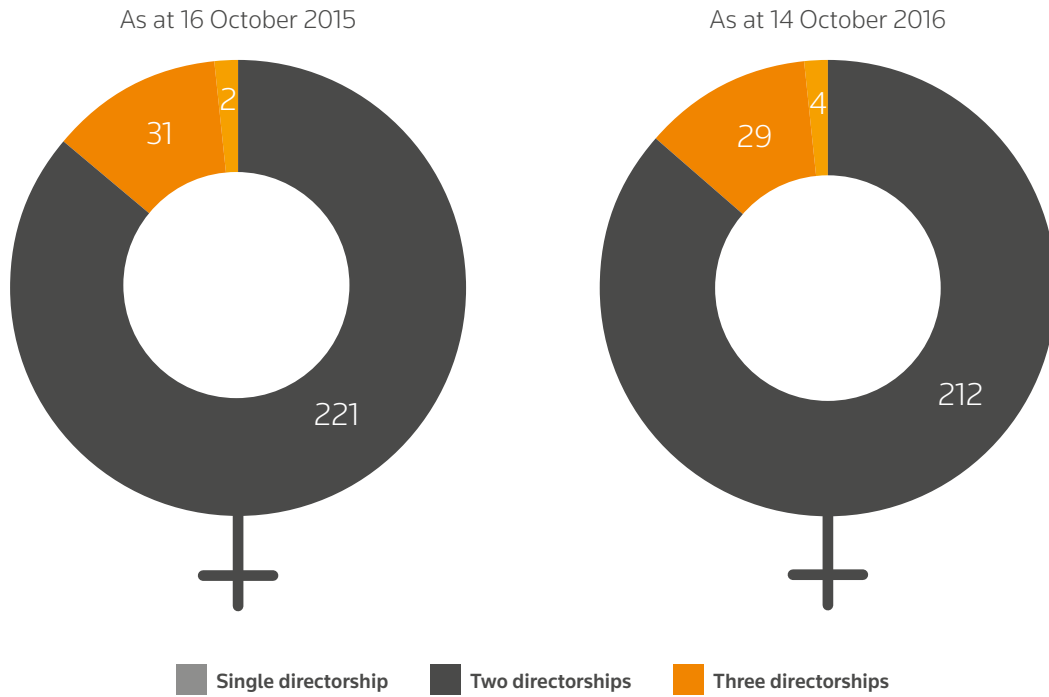
As shown in the following diagram, 32 women hold executive director positions, the remaining 249 women hold non-executive directorships, of which five are non-executive chairs.

Positions of female directors on FTSE 100 boards



FTSE 100: Multiple female directorships

From an analysis of multiple female directorships in the FTSE 100, it is interesting to note that only 13% of the female directors hold multiple FTSE 100 directorships, which is the same as 2015. The 281 female FTSE 100 board positions were held by 245 women. Of the 245 women, 212 held single directorships, 29 held two directorships and four held three directorships with other FTSE 100 companies. Of the 33 women who held multiple directorships, eight held an executive position within a FTSE 100 company.



BOARD EVALUATION

Effective board evaluation is an integral part of corporate governance and is seen by investors as critical to the effective performance and development of the board. It also gives shareholders confidence that the board is striving to be the best it can be. Furthermore, an effective board evaluation process may be a useful tool to monitor and measure culture within an organisation and, although a continuous process rather than an annual process, to identify gaps in the board for the purposes of succession planning.

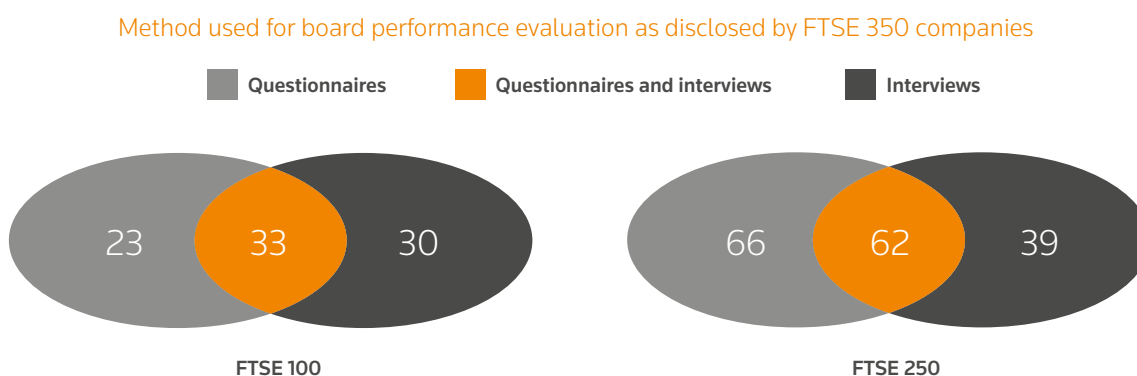
An annual board evaluation with an external facilitation every three years is now considered to be best practice amongst FTSE 350 companies and 93% of the FTSE 350 companies reviewed this year disclosed specific findings from their most recent board evaluation, as recommended by Provision B.6.1 of the UK Corporate Governance Code (Code).

Companies are encouraged to disclose how the three year evaluation cycle works, a description of the performance evaluation process and any significant recommendations or actions taken. Investors are also looking for transparent and balanced disclosures on areas identified for improvement in an evaluation, although there is concern that the information presented by some companies is often too boilerplate, with little insight into what the issues are or how the board is going to address these going forward.

FTSE 350: Method of evaluation

The level of detail disclosed in respect of board evaluations during the 2016 reporting season has again been varied. The majority of companies have provided a summary of the methods of evaluation used, in particular whether the process has been based on questionnaires, interviews with each board member or a combination of both, and whether the evaluation process included feedback from non-board members.

What's Market has analysed the disclosures made by those companies that included a description of their evaluation process in their 2015/16 annual report to see if there is a preference for a particular method of evaluation. From our review, 253 FTSE 350 companies (86 FTSE 100 and 167 FTSE 250) disclosed that the evaluation process had been conducted using either questionnaires, interviews, or both, as detailed in the graph below.



From our analysis, the number of FTSE 350 companies using a combination of interviews and questionnaires as part of the evaluation process has remained fairly static this year, with 95 FTSE 350 companies using this method of evaluation during the 2016 reporting season compared to 93 FTSE 350 companies during 2015.

It is interesting to note that 29 FTSE 350 companies (17 FTSE 100 and 12 FTSE 250) included non-board members in their board evaluation process during 2016.

FTSE 350: Disclosures

As investors press for more meaningful disclosures, it is encouraging to see that some companies are including more informative disclosures in their annual reports, examples of which are shown in the table below:

Type of disclosure made	Examples of companies
Company outlined three-year evaluation review cycle	Tate & Lyle PLC Spirax – Sarco Engineering plc Berendsen plc
Company outlined a detailed methodology of the processes used during the board evaluation	Virgin Money Holdings (UK) plc Hikma Pharmaceuticals PLC Kier Group plc
Company reported areas that have been highlighted during their board evaluation that require further progress or improvement	The Go-Ahead Group plc Hays plc Spire Healthcare Group plc Genus plc
Company included an action plan for 2016/2017	Marks and Spencer Group plc Capital & Counties Properties PLC Capita plc Barratt Developments PLC

The need for a greater focus on succession planning and improved risk assessment continue to be key themes arising from board evaluations this year.

What's Market has noted those companies that we consider have provided helpful disclosures in relation to board evaluation, see [Practice note, Annual report and accounts: best reporting](#).

DIRECTORS' REMUNERATION

Executive remuneration continues to be in the spotlight, highlighted by the recent publication of the Executive Remuneration Working Group's final report⁹ and the GC100 and Investor Group's revised directors' remuneration reporting guidance¹⁰. It features in the House of Commons BIS Select Committee inquiry and is also mentioned in the FRC's letter of advice to audit committee chairs and finance directors of listed companies, highlighting key issues and improvements it considers can be made to annual reports in the 2016 reporting season¹¹.

With most companies now on a rolling three year cycle for seeking a binding shareholders' vote on their remuneration policy, What's Market has monitored those companies that have, nevertheless, made changes to their remuneration policy this year prior to their scheduled renewal (see [Notice, Directors' remuneration policy](#)). We have also monitored those companies that have not made changes to their remuneration policy to see how many of these companies included the full policy in their annual report and how many included a summary.

244 companies (81 FTSE 100 and 163 FTSE 250) did not propose a resolution to approve the remuneration policy at their AGM this year. Of these companies, 124 companies included the full remuneration policy in their directors' remuneration report and 110 companies included only a summary of the policy. Ten companies included neither the full policy nor a summary but simply referred to the full remuneration policy being available on the company's website.

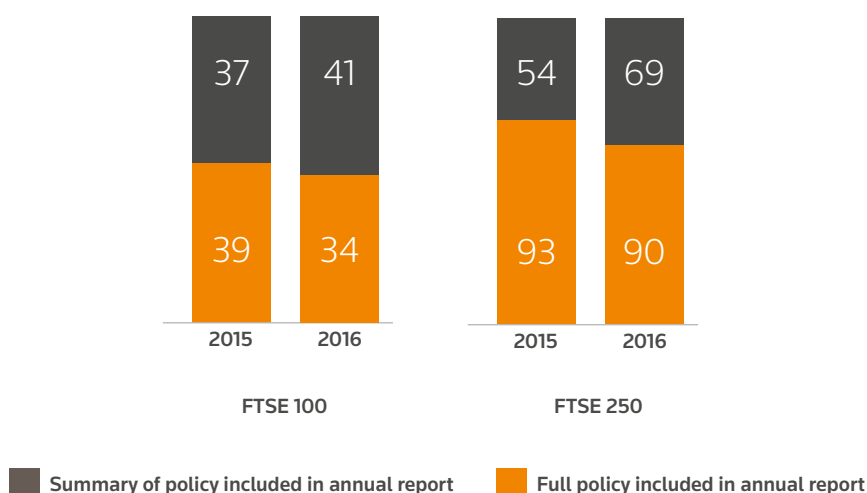
⁹ See [Legal update, Executive remuneration: Working Group's final report, 26 July 2016](#).

¹⁰ See [Legal update, Directors' remuneration: revised GC100 and Investor Group directors' remuneration reporting guidance, 15 August 2016](#).

¹¹ See [Legal update, Financial reporting: FRC guidance to listed companies on 2016 annual reports, 11 October, 2016](#).

Further analysis of the methods of disclosure for the FTSE 100 and FTSE 250 companies is shown in the following graph.

Reference to directors' remuneration policy where no changes sought at AGM



Our analysis shows that the number of FTSE 350 companies including a summary of the remuneration policy rather than the full policy in their annual report has increased this year. It will be interesting to see if this trend continues as companies adapt to the rolling three year approval cycle.

AUDIT TENDER

All FTSE 350 companies are required to comply with the Statutory Audit Services for Large Companies Market Investigation (Mandatory Use of Competitive Tender Processes and Audit Committee Responsibilities) Order 2014 (Order) and put their statutory audit engagement out to tender at least every ten years and to change their auditor at least every 20 years. Where a company has not undergone a competitive tender process in the previous five years, the company is obliged to include in its audit committee report the financial year in which it proposes to next complete a competitive audit tender process and the reasons why completion in that proposed financial year is in the best interests of the members.

A company must also include a statement in its annual report as to whether it has complied with the Order.

For financial years beginning on or after 17 June 2016, the Companies Act 2006 extends the requirement for a competitive tender process to public interest entities (which includes all companies whose transferable securities are admitted to trading on a regulated market¹²). This extension was introduced to deal with the application of EU Audit Regulation 537/2014.

As a result of these changes, the FRC has updated the Code, its guidance on audit committees and ethical and auditing standards¹³ for financial periods beginning on or after 17 June 2016.

What's Market has monitored disclosures relating to audit tendering during the 2016 reporting season to see how many companies have tendered their audit engagement this year and whether, as a result of the tender process, a new auditor has been appointed or whether the incumbent auditor has been reappointed.

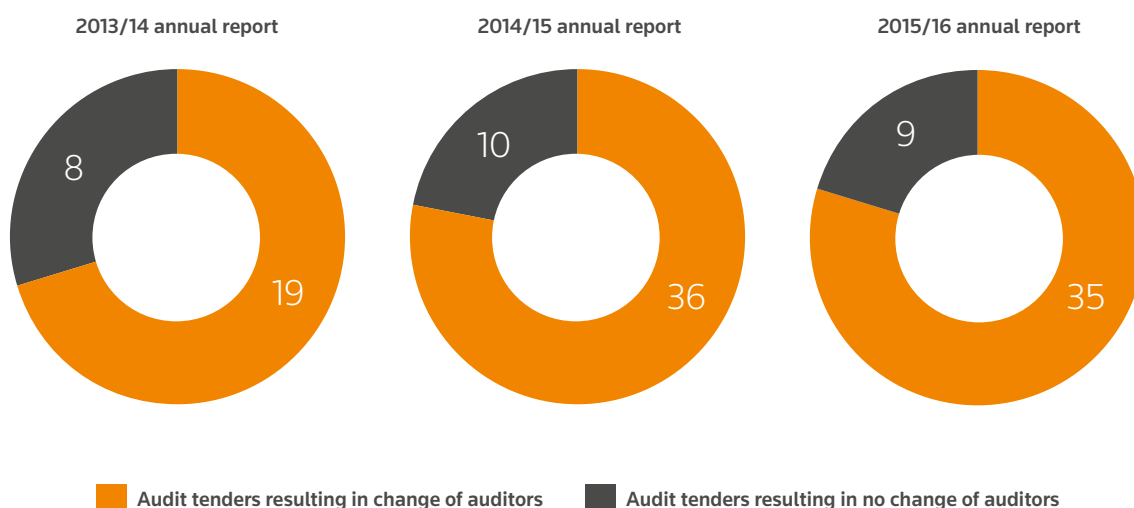
85% of FTSE 350 companies (83 FTSE 100 and 171 FTSE 250) included a reference in their annual report to the requirement to put their external audit engagement out to tender, which illustrates that the vast majority of companies are seeking to comply with the new audit regime introduced by the Order. 65% of those companies (54 FTSE 100 and 111 FTSE 250) also provided a date by which they anticipated conducting an audit tender.

As illustrated below, 44 companies (17 FTSE 100 and 27 FTSE 250) put their external audit engagement out to tender during this reporting season. 35 of these tenders resulted in a change of external auditor, with nine resulting in the reappointment of the incumbent auditor.

¹² See *Legal update, Statutory audit: Statutory Auditors and Third Country Auditors Regulations 2016, 20 June 2016*.

¹³ See *Legal update, Statutory audit: revised UK Corporate Governance Code, guidance for audit committees and auditing and ethical standards, 27 April 2016*.

Audit tenders conducted by FTSE 350 companies and outcomes reported



As with the 2015 reporting season, all but one of the tenders resulted in the appointment of KPMG LLP, Ernst & Young LLP, PricewaterhouseCoopers LLP (PwC) or Deloitte LLP. Of the 35 FTSE 350 companies that have conducted a tender this year and changed their auditor, 34% of those companies appointed PwC and four of the nine companies that reappointed their incumbent auditor, retained PwC.

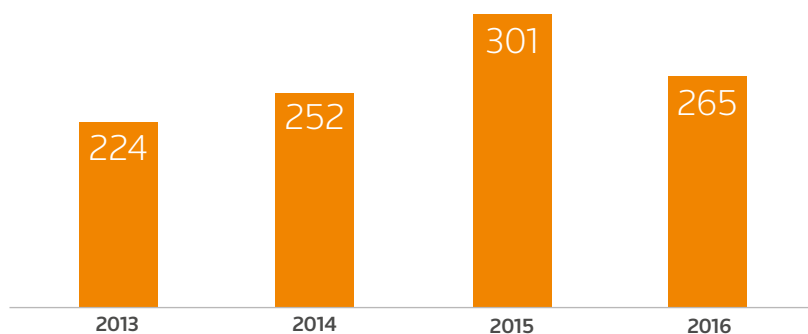
For further details, see [What's Market: AGMs: FTSE 350: 2016: External audit put out to tender in reporting financial year](#).

COMPLIANCE WITH THE UK CORPORATE GOVERNANCE CODE

FTSE 350 companies are now subject to the 2014 version of the UK Corporate Governance Code, which applies to financial years beginning on or after 1 October 2014. In April this year, the FRC published a revised version of the Code to reflect the consequential changes required from the implementation of the EU's Audit Regulation 537/2014¹⁴. This version of the Code will apply to financial periods beginning on or after 17 June 2016.

Our analysis illustrates that the 2016 reporting season has seen a decrease in the number of companies that have disclosed non-compliance with at least one provision of the Code (123 FTSE 350 companies in 2016 compared to 142 companies in 2015). Our findings also show that there has been a decrease in the number of Code provisions with which companies have disclosed non-compliance, as illustrated by the graph below.

Aggregate number of provisions stated as not complied with by FTSE 350 companies in their annual reports

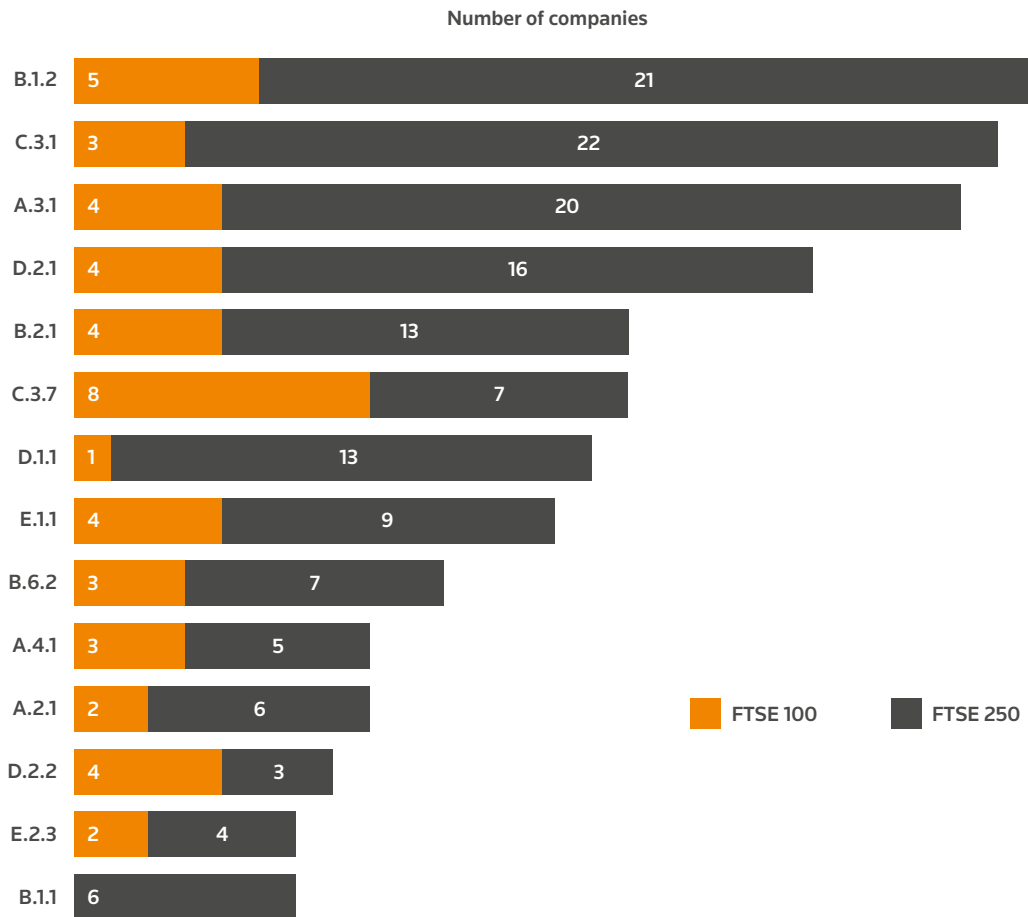


¹⁴ See [Legal update, Statutory audit: final UK Corporate Governance Code, guidance for audit committees and auditing and ethical standards, 17 June 2016](#).

The most frequent explanations for non-compliance with the Code relate to Provisions A.3.1 (chairman to be independent on appointment), B.1.2 (at least half the board should be independent), C.3.1 (composition of audit committee) and D.2.1 (composition of the remuneration committee). 64 companies (14 FTSE 100 and 50 FTSE 250) are not in compliance with at least one of these four provisions.

The following graph illustrates the 14 areas of the Code from which the FTSE 100 and FTSE 250 companies deviated from most frequently.

Most frequent areas of non-compliance with the Code as reported by FTSE 350 companies in their 2015/16 annual report



What's Market also noted that six companies (three FTSE 100 and three FTSE 250) reported that they had not conducted an annual evaluation of their own performance as recommended by Main Principle B.6 of the Code. This figure is the same as 2015.

For examples of explanations of non-compliance with the Code, see [What's Market: AGMs: FTSE 350: 2016: Explanation of non-compliance with the UK Corporate Governance Code](#).

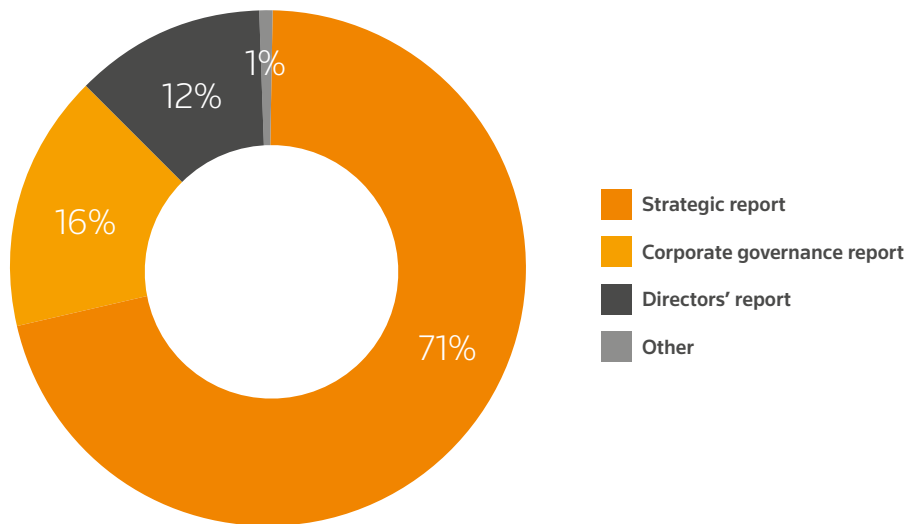
VIABILITY STATEMENTS

The 2016 reporting season is the first year of enhanced reporting on risk and internal controls and the inclusion of a viability statement following changes introduced by Provision C.2.2 of the 2014 version of the Code. These changes are designed to strengthen the focus of companies and investors on the longer-term and the sustainability of value creation¹⁵.

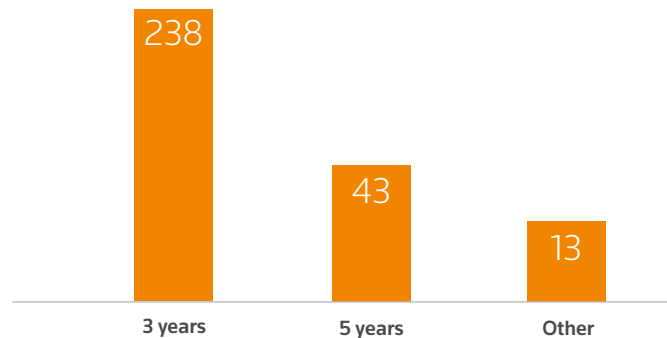
Last year, What's Market monitored those companies that complied early with Provision C.2.2 to ascertain the period over which the directors of these companies assessed the prospects of the company, together with the location of the statements within the annual report. We have once again analysed these disclosures for each of the FTSE 350 companies that have been required to comply with Provision C.2.2 of the Code this year to ascertain how market practice is evolving. Our findings are set out below.

During the 2016 reporting season each of the companies reviewed that were required to comply with Provision C.2.2 of the Code (294¹⁶ FTSE 350 companies) have included a viability statement within their annual report. As illustrated by the following graphs, 71% of the companies reviewed included the viability statement within their strategic report. In relation to the period that they have assessed the prospects of the company, 81% of the companies chose a period of three years.

Location of viability statement within the annual report



Number of FTSE 350 companies disclosing period of time covering viability statement



¹⁵ FRC press release, FRC updates UK Corporate Governance Code, dated 17 September 2014.

¹⁶ FTSE 350 premium equity commercial companies with financial years beginning on or after 1 October 2014 that have been required to include a viability statement in their 2015/16 annual report in accordance with Provision C.2.2 of the Code.

BLACK SUN

ANALYSIS OF REPORTING TRENDS OF FTSE 100 COMPANIES

During the 2016 reporting season, Black Sun¹⁷ carried out an in-depth analysis of the annual reports of FTSE 100 companies¹⁸ to see how these companies responded to challenges and changes within the reporting landscape. The following report, compiled by Black Sun, provides an insight into what makes a “compelling corporate story” and the disclosures that companies may wish to consider for the 2017 reporting season.



Ticking the boxes, missing the point

UK reporting has largely gone from strength to strength over the last ten years. Together, UK reporters have covered considerable ground in navigating the transformed corporate reporting landscape and the full FTSE 100 now meets all regulatory requirements and scores well technically in our annual assessments.

Does this mean that UK corporate reporting has reached a peak of fully realised potential and high performance? Unfortunately not. While they may be ticking the boxes, many companies are missing the point. What’s missing, in our view, is a compelling corporate story that will engage and inspire a company’s shareholders.

How are you unique?

A starting point is to articulate what makes you unique. This means providing a clear sense of what sets you apart from peers or how well placed you are to take advantage of market drivers. Providing clarity around your investment proposition or how you are able to create and sustain value over the long-term is also paramount.

Looking ahead, the challenges include increasing the focus on value creation for all stakeholder groups; moving away from boilerplate reporting in favour of personal insights into performance, prospects, risk and reward; and providing future-oriented business overviews to help combat the short-termism that has contributed to the economic volatility of recent years.

Time for a gearshift

It’s time for a gearshift. Companies have the foundations in place; now they need to start building. They need to take a more joined-up approach to reporting that reverses the silo-mindset, provides a long-term perspective, and explains their capacity for sustainable value creation.

Openness around a company’s long-term strategy and growth drivers, backed by long-term milestones, will give investors a better understanding of a company’s future prospects. Fair, balanced and understandable communication is paramount as it will build trust and encourage investors to focus on sustainable value as well. In turn, a stable shareholder base will give companies the opportunity to invest for the long-term.

The Complete 100

In our annual research publication “*The Complete 100*”, we have this year, our 11th year, attempted to assess how meaningful the narrative provided in FTSE 100 annual reports is and how material it is for the value creation

¹⁷ Black Sun Plc – Stakeholder communications

¹⁸ FTSE 100 companies as at 1 April 2016 with financial years ended on or before 31 December 2015.

story. To encourage a more holistic view we have assessed reporting trends and best practice under four key themes: Value creation, Connectivity and long-term thinking, Governance and accountability and Corporate culture. In each case, we have looked at how these themes support the value creation process and proposition.

Value creation

Fundamental to the long-term value creation story is a company's ability to demonstrate how it employs its resources and relationships to take advantage of market drivers. Crucial is also how it achieves its goals while navigating uncertainties, and how it aligns reward to long-term performance under the leadership of management and board.

However, our research finds that more work is needed in telling this compelling and well-aligned story. While many companies excel in one or two content elements of the annual report, hardly any excel across all to tell a coherent story of how each element contributes to or impact value creation.

Areas that are developing	Areas that need improvement
Business model	
55% Use value creation concept to explain their business model.	10% Report extended on outcomes.
Market and outlook	
93% Discuss industry trends.	65% Use their market review to explain strategy.
Strategy	
90% Identify strategic priorities.	37% Set quantitative objectives and targets.
KPIs	
72% Explain what KPIs are.	34% Explain the relevance to strategy.

Connectivity and long-term thinking

Connectivity and long-term thinking is critical to the long-term value creation story. This includes how the market drivers shape and impact strategy, how material risks relate to strategy and the connectivity between KPIs and remuneration. However, while many companies attempt to provide some connectivity this is often through the use of page references and icons rather than by providing a meaningful narrative link that provides enough context to allow for assessment. Equally, companies are very reluctant to provide long-term strategic targets or milestones and often stay clear of being too forward looking in terms of the market review.

Areas that are developing	Areas that need improvement
Business model, strategy and risk	
65% Demonstrate a direct link between risk and strategy.	22% Provide a link between business model and risk.
Market and outlook	
60% Provide a link between strategy and KPIs.	36% Provide a meaningful link between KPIs and remuneration.
Long-term thinking	
13% Outline specific priorities or objectives with timeframes of five or more years.	27% Report no strategic trends.

Governance and accountability

A board's strength, independence of thought and correct skillset are all crucial for the delivery of a company's long-term strategy and can be a distinct competitive advantage. In this sense governance and accountability are key structural supports for long-term value creation. However, our research shows that more work is needed in terms of articulating this, with few companies substantially discussing how the skills and experience represented at board level support the future direction of the company. Worse, a majority of the FTSE 100 is reluctant to explain how the board is able to constructively challenge management or indeed commit to good governance.

Areas that are developing	Areas that need improvement
Strength of board	
32% Of chairmen or chief executives commit to good governance.	40% Explain the board's ability to challenge management.
Board and committee activities and priorities	
75% Outline activities during the year of the board.	20% Clearly report against priorities from the previous year.
Governance and risk	
99% Report on risk management.	21% Provide a heat risk matrix.
Governance and sustainability	
39% Have a board-level sustainability committee.	20% Incorporate sustainability into their overarching group strategy.

Corporate culture

Corporate culture is increasingly recognised for its pivotal impact on the way companies do business. Aligning culture, values and purpose with strategy can help ensure that performance is achieved in a manner that supports long-term aims. Our research suggests that narrative around corporate culture and values is increasing year-on-year, with many companies using their values as operational guidelines to achieve a desired corporate culture. However, while companies make commitments to embedding and aligning business and culture, very few are currently able to set targets for doing so or otherwise evidence their progress.

Areas that are developing	Areas that need improvement
Culture and tone from the top	
68% Set out their values.	33% Explain their purpose.
Aligning business and culture	
37% Attempt to align strategy and culture/values.	12% Align culture/values and employee appraisals.
Embedding culture	
43% Explain how they embed values and expected behaviours.	3% Report targets linked to embedding values.
Culture and stakeholders	
70% Explain how they engage with stakeholders.	24% Discuss how they have responded to stakeholder feedback.

NOTICE

This part of the report covers 299 FTSE 350 premium equity commercial companies that published their notice of AGM between 30 October 2015 and 28 October 2016 and held, or will hold, their AGM in 2016 (99 FTSE 100 companies and 200 FTSE 250 companies).

DIRECTORS' REMUNERATION POLICY

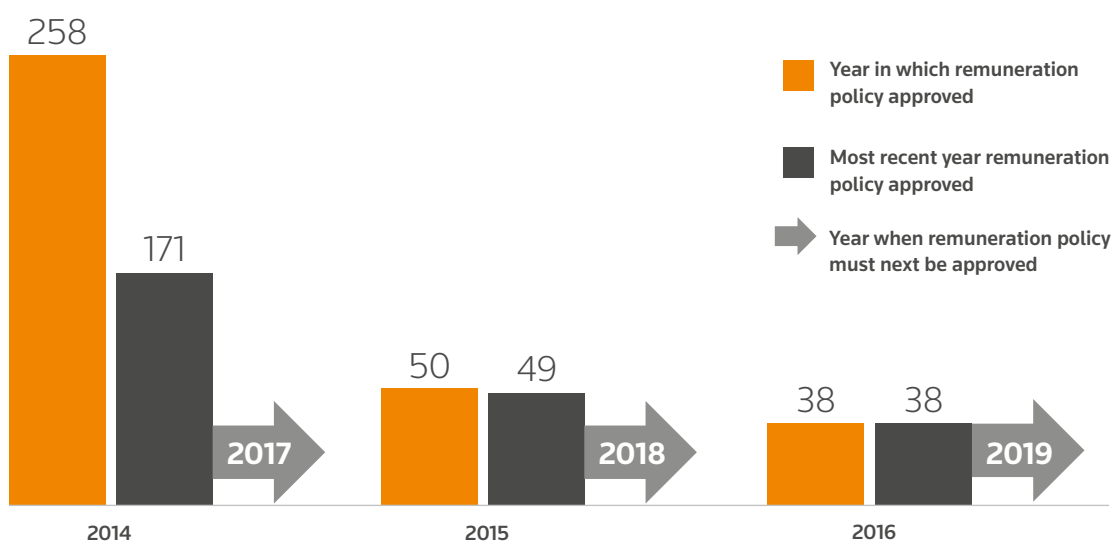
What's Market continues to monitor those companies seeking approval of their remuneration policy. From our analysis, 55 of the 299 FTSE 350 companies reviewed have proposed a resolution to approve their remuneration policy during this year's AGM season. Of these companies, eight are companies that were admitted to trading on the Main Market during 2015 or 2016 and have held their first AGM during 2016 at which they proposed the resolution for the first time.

Number of FTSE 350 companies that proposed a resolution to approve the remuneration policy during 2016



Of the 299 FTSE 350 companies reviewed this year, 258 companies sought shareholder approval for their remuneration policies in 2014 and, unless the remuneration policies have subsequently been renewed, these companies will be seeking shareholder approval for their remuneration policies at their AGMs in 2017 in line with the statutory requirements. However, as illustrated in the graph below, our analysis shows that of these 258 companies, 88 have subsequently renewed their policies within the three year approval cycle, either during the 2015 reporting season or at their 2016 AGM and will not, therefore, be required to renew their policies in 2017.

Number of FTSE 350 companies that have made subsequent revisions to their remuneration policies in 2015 and/or 2016



As can be seen from the graph, 171 of the 258 companies that first sought approval in 2014 will be required to seek shareholder approval of their remuneration policies at their 2017 AGM. 50 companies revised their policies in 2015 and 38 revised their policies in 2016 thus commencing a new three year cycle. It is interesting to note that one company sought shareholder approval to amend its remuneration policy initially passed in 2014 at both its 2015 and 2016 AGMs.

For details of the voting results, see [Voting results, Remuneration policies](#).

CONTROLLING SHAREHOLDERS

The Listing Rules¹⁹ require a company that has a controlling shareholder (that is, a shareholder who, with its concert parties, controls 30% or more of the voting rights attached to the company's shares) to enter into a relationship agreement with its controlling shareholder and that the election or re-election of any independent director²⁰ must be approved by both the independent shareholders²¹ of the company and all the shareholders of the company.

During the 2016 reporting season, What's Market monitored those companies that have disclosed that they have a controlling shareholder and proposed a resolution for the election or re-election of an independent director at their AGM. We have also analysed how the dual voting structure was conducted.

From our review, 44 companies (8 FTSE 100 and 36 FTSE 250) proposed a resolution for the election or re-election of an independent director. It is interesting to note that only three companies, each FTSE 250, proposed a separate resolution for the re-election of an independent director to be voted on solely by independent shareholders. 41 companies (8 FTSE 100 and 33 FTSE 250) proposed one resolution but separately calculated the votes cast by the company's independent shareholders.

¹⁹ Listing Rule 9.2.2A

²⁰ A director who has been determined to be independent under the UK Corporate Governance Code.

²¹ Any person entitled to vote on the election or re-election of directors of the company that is not a controlling shareholder of the company.

AUDITORS' REMUNERATION

In its corporate governance policy and guidelines on voting²², PLSA²³ states that separate resolutions should cover the appointment of auditors and the setting, or authorising of, auditors' remuneration. The FRC recommends that the audit committee (as opposed to the full board) should approve the terms of engagement and the remuneration to be paid to the external auditor in respect of audit services provided²⁴.

What's Market monitored those companies that proposed separate resolutions, together with the number of companies that authorised the audit committee to set the auditors' remuneration and the number of companies that authorised the board to do so.

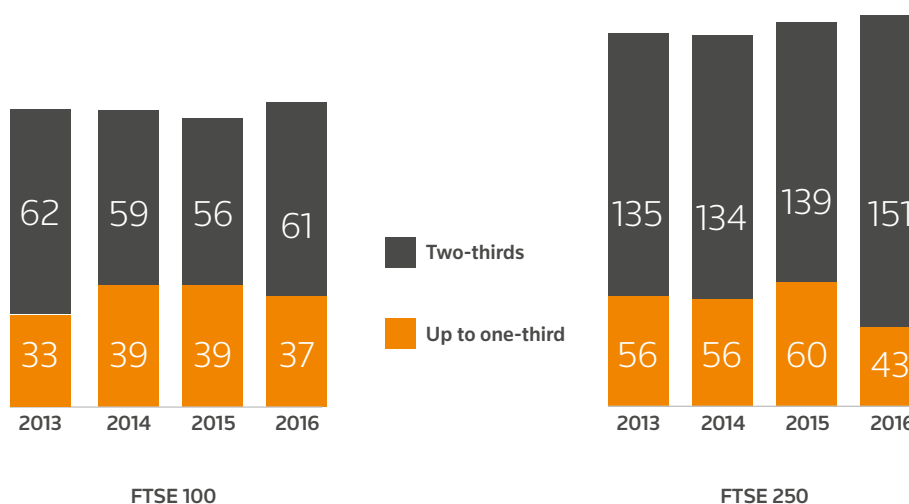
From our review of 299 FTSE 350 companies, 279 companies proposed two separate resolutions for the appointment and the setting of remuneration of its auditors. As regards the authority to determine the auditors' remuneration, 134 companies (58 FTSE 100 and 76 FTSE 250) gave the authority to approve the company's auditor's remuneration to their audit committee and 162 companies (39 FTSE 100 and 123 FTSE 250) gave authority to the full board. Two FTSE 100 companies (both of which are non-UK incorporated companies) did not give such an authority and one FTSE 250 company gave authority to both its audit committee and its full board.

AUTHORITY TO ALLOT

During the 2016 reporting season, What's Market has continued to monitor those companies that have taken advantage of the additional flexibility set out in guidelines issued by the Investment Association (IA), which support an authority to allot up to two-thirds of the existing issued share capital, provided any amount over one-third of the existing issued shares will be applied to fully pre-emptive rights issues only.

The number of rights issues²⁵ announced by premium equity commercial companies listed on the Main Market over the past five years has been relatively low. As at 28 October 2016, only eight companies had undertaken rights issues (compared to six covered on What's Market in 2015) (see [What's Market: Secondary issues: Rights issues: Main Market](#)).

Number of FTSE 350 companies seeking authority to allot shares



²² See [Practice note, PLSA corporate governance and policy guidelines on voting, published 12 December 2015](#).

²³ [Pensions and Lifetime Savings Association \(formerly NAPF\)](#).

²⁴ [Paragraph 63 of the FRC's Guidance on Audit Committees, published June 2016](#).

²⁵ As reviewed by What's Market.

The 2016 reporting season has seen a slight increase in the number of FTSE 100 companies seeking the additional one-third authority compared to previous reporting seasons, which had seen a steady decline since 2013. The number of FTSE 250 companies seeking the additional one-third authority has once again increased this year.

DISAPPLICATION OF PRE-EMPTION PROVISIONS

In March 2015, the Pre-Emption Group published a revised statement of principles for the disapplication of pre-emption rights offering companies greater flexibility to undertake non pre-emptive issues of equity securities in connection with an acquisition or specified capital investment. This means that companies may seek an enhanced authority of up to 10% of the issued ordinary share capital provided 5% of the authority is used only in connection with an acquisition or specified capital investment.

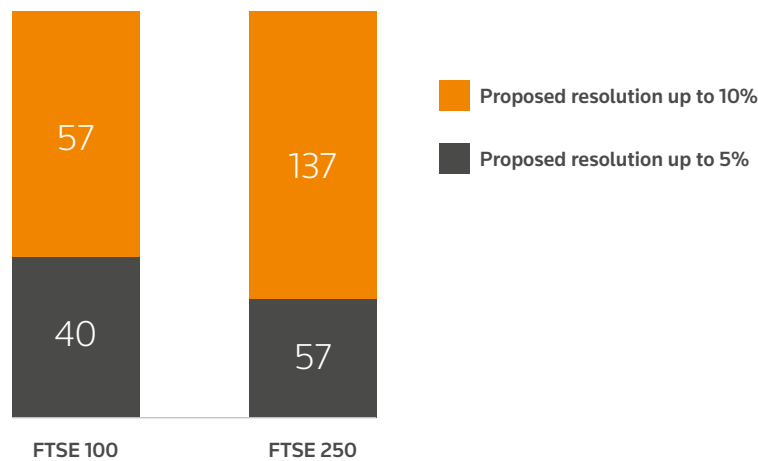
On 5 May 2016, following a review of market practice, the Pre-Emption Group published template resolutions which assist companies in disapplying pre-emption rights in compliance with the requirements of the statement of principles going forward²⁶.

The template requires two separate resolutions to be used when a company is seeking a general disapplication of pre-emption rights in respect of both the issue of:

- Up to 5% of its ordinary share capital on an unrestricted basis.
- An additional 5% of its ordinary share capital in connection with an acquisition or specified capital investment.

During the 2016 reporting season, What's Market has monitored those companies that have taken the enhanced authority. We have also analysed those companies that have published their notices of AGM since publication of the template resolutions to assess the extent to which these companies have adhered to the Pre-Emption Group's recommendations and proposed two separate resolutions.

Number of FTSE 350 companies that proposed a resolution authorising enhanced disapplication of pre-emption rights

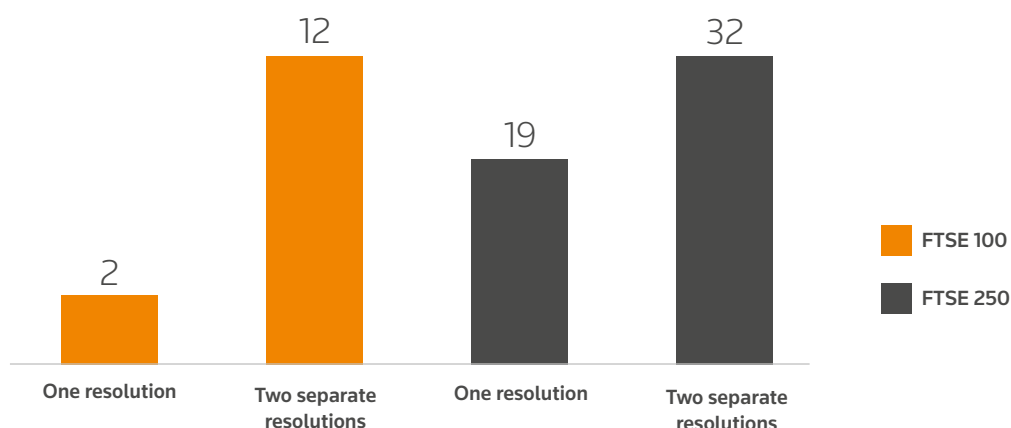


Each of the 194 companies that sought an enhanced disapplication authority included a statement in the explanatory notes to the resolution that the authority will only be used in connection with an acquisition or specified capital investment.

It is interesting to note that proportionately more FTSE 250 companies (71%) have sought the enhanced authority this year compared to FTSE 100 companies (59%).

²⁶ See *Legal update, Pre-emption rights: Pre-Emption Group template resolution and monitoring report, 5 May 2016*.

Number of FTSE 350 companies that proposed a resolution authorising enhanced disapplication of pre-emption rights since 5 May 2016



As illustrated by the graph above, of the 65 FTSE 350 companies that proposed a resolution for an enhanced authority since May 2016, 68% followed the Pre-emption Group’s recommended template and proposed two separate resolutions. It is interesting to note that, of the 44 companies that proposed a separate resolution for the enhanced disapplication of pre-emption rights, three such companies received a substantial vote of between 11% and 15% against the resolution (see **Voting results, substantial votes against resolution**).

Following publication of the IA’s share capital management guidelines in July this year²⁷, companies will need to be mindful that from 1 August 2016, IVIS²⁸ will issue an amber top to any company seeking an enhanced disapplication of pre-emption rights which does not provide for two separate resolutions as set out in the template. From 1 January 2017, IVIS will issue a red top to any such company.

What’s Market will continue to monitor market practice in relation to the disapplication of pre-emption provisions during the 2017 AGM season to see the extent to which companies adhere to these guidelines.

INCENTIVE PLANS

What’s Market has been following FTSE 350 companies that have sought shareholder approval for the introduction, amendment or extension of a share plan. 59 companies have put forward resolutions so far in 2016 (16 FTSE 100, 43 FTSE 250).

12 of these companies proposed amendments to align existing plans with new policies or changes in legislation rather than entirely new plans.

The remaining 47 companies proposed a total of 60 new plans:

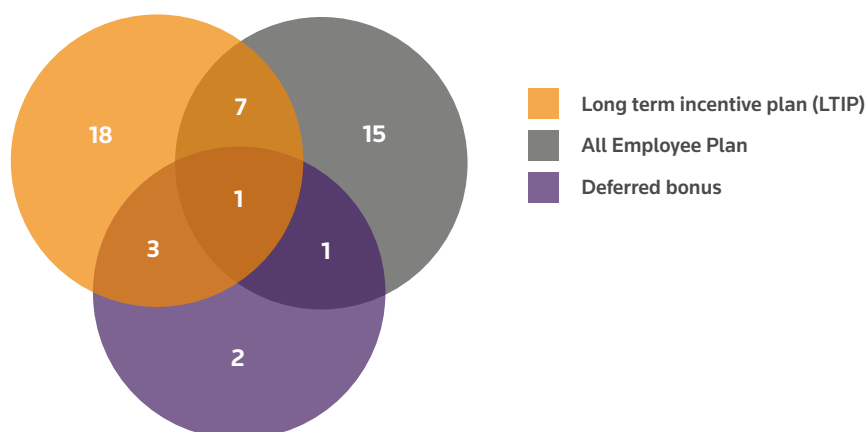
- 29 new long term incentive plans (LTIPs, PSP and similar) (ten FTSE 100 and 19 FTSE 250).
- Seven new deferred bonus plans (one FTSE 100 and six FTSE 250).
- 24 new all employee plans (SAYE, SIP, US ESPPs and similar) (ten FTSE 100 and 14 FTSE 250).

The diagram below shows the number of companies seeking shareholder approval for new plans during 2016, separating those companies that proposed only one type of plan from those that proposed two or (in one example) three new types of plan.

²⁷ The Investment Association, *Share capital management guidelines*, dated July 2016.

²⁸ Institutional Voting Information Service, the IA’s corporate governance research service.

Number of FTSE 350 companies proposing new incentive plans in 2016



One company sought approval for amendments to its LTIP to align it with its proposed new directors' remuneration policy. Shareholders were unhappy with the new policy and 72% of shareholders voted against both the remuneration policy and the amendment to the LTIP. However, 93% of shareholders approved amendments to the LTIP in relation to participants below executive director level.

Plan design

On 26 July 2016, the Executive Remuneration Working Group published its final report²⁹. The report describes what it calls the "one-size-fits-all LTIP model" that is currently widely used by Main Market listed companies. The characteristics of this model are a grant of shares that vest based on performance measured over a three to five year period against a series of pre-agreed targets. Typically the size of an award is limited at a multiple of salary ranging between 200% and 350%, with an overall shareholder dilution limit of 5% of share capital over a ten year period. Most awards are subject to a further two-year holding period.

Of the 28 new discretionary incentive plans proposed during this year's AGM season, 24 follow the one-size-fits-all model, while four have a more bespoke design. Plans which are of particular interest are:

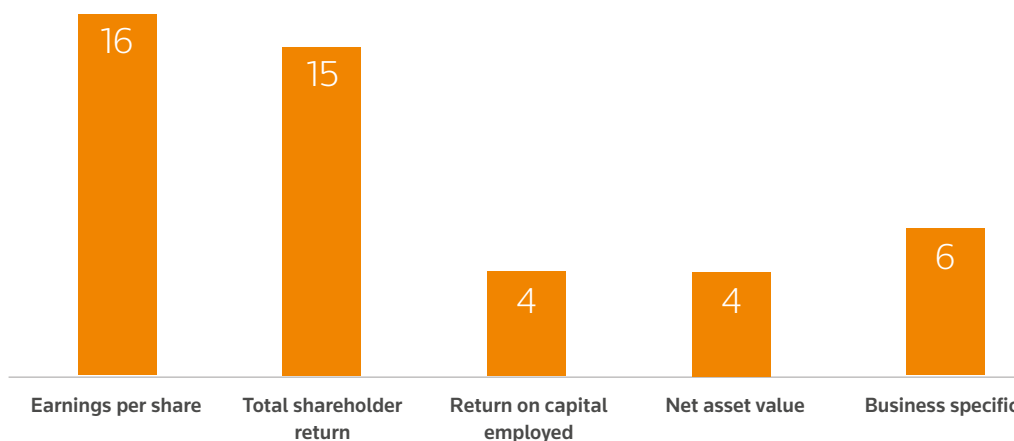
Kingfisher plc	Micro Focus International plc	Ophir Energy plc	Telecom Plus Plc
<p>The Kingfisher Alignment Shares and Transformation Incentive Plan differs from the one-size-fits-all model by allowing transformation incentive awards to be granted over shares worth up to 800% of annual base salary (880% for the Group Chief Executive).</p> <p>98% of shareholders voted in favour.</p>	<p>This company sought approval for "Additional Share Grants". These are one-off awards of nil cost options over what could be substantial shareholdings as the upper limit is 0.5% of the share capital for any individual. The performance conditions are challenging: nothing vests unless the company achieves a 50% return to shareholders; full vesting requires a 100% shareholder return.</p> <p>78% of shareholders voted in favour.</p>	<p>The Ophir Energy Long Term Value Creation Plan replaces the company's existing LTIP. The new plan defines a pool of value that can be distributed to employees in accordance with a points allocation on certain key events. The pool is equal to 12.5% of the growth in the company's net asset value above a benchmark value on 1 January 2016.</p> <p>94% of shareholders voted in favour</p>	<p>Telecom Plus took the unusual step of seeking approval to grant awards over a class of growth share to be issued either by the listed parent or a subsidiary. These shares can be converted into or exchanged for ordinary shares if the company achieves a growth hurdle based on earnings per share.</p> <p>66% of shareholders voted in favour.</p>

29 See *Legal update, Executive remuneration: Working Group's final report, 26 July 2016*.

Performance conditions

Several companies did not state their performance conditions in the plan description accompanying the AGM notice, but often the performance measures were stated elsewhere, for example in the remuneration policy. The most commonly used measures were earnings per share (16 companies) and total shareholder return (15 companies). The only other measures used by more than one company were return on capital employed (four companies) and net asset value (four companies). Some companies proposed conditions that were very specific to their business. Examples are the company's customer complaints ranking (SSE plc) and lease adjusted net debt/EBITDAR ratio (Kingfisher plc).

Performance conditions accompanying incentive plans proposed in 2016



Pro-rating on change of control

New LTIPs and performance share plans almost all require pro-rating for both time and performance on a change of control or other corporate event. The board is expected to have regard both to the time that has passed since the award was made and the extent to which the performance conditions have been achieved. However, typically the board has a discretion to override the strict apportionment.

New deferred share bonus plans, however, typically allow full vesting on a change of control. This reflects the fact that the award has already been earned.

Dilution limits

The IA's principles of remuneration³⁰ expect companies to limit the use of new issue and treasury shares to:

- 10% in ten years for all plans.
- 5% in ten years for discretionary plans aimed at senior executives.

Most companies kept within these limits but exceptions were:

Vedanta Resources plc	Ophir Energy plc	Telecom Plus Plc	NMC Health plc
<p>Given permission to remove the 5% in ten years dilution limit from its 2014 Performance Share Plan (PSP), leaving a 10% in ten years limit. The reason for this was that its PSP was used to motivate a broad group of employees deep in the company's group.</p> <p>99% of shareholders voted in favour.</p>	<p>Does not have a 5% in ten years dilution limit in its new Long Term Value Creation Plan.</p> <p>94% of shareholders voted in favour.</p>	<p>The total theoretical maximum dilution following approval of the LTIP 2016 is 20%.</p>	<p>Maintains a 3% in ten years overall limit on all its plans.</p>

Holding period

Institutional shareholders expect executives to hold their shares after vesting rather than sell them immediately. Fidelity International Limited³¹, for example, has stated its intention to vote against the remuneration policy of any company which does not have a retention period of at least five years between the grant of the award and the executive being allowed to sell the shares.

Companies have generally complied with this, with most companies requiring participants to retain shares for two years after initial "vesting" three years after grant. Some companies linked the five year holding period requirement to their share ownership targets. For example, **Assura plc** normally requires executive directors who acquire shares under its PSP to hold them for a further two years after a three year vesting period. But it does not apply this to directors who already hold shares worth three times their base salary.

Similarly, executive directors of **Debenhams plc** are expected to build and maintain a holding of Debenhams shares equal to their base salary. Executives are expected to retain 50% of any post-tax shares that vest under any share plans until this shareholding is reached.

Malus and clawback

Malus in relation to LTIPs and share schemes usually describes the downward adjustment of a share scheme award in the event of a downturn in the company's performance or poor performance or misconduct by the employee. Malus arrangements adjust share awards before they have vested.

Clawback means that an executive who receives shares under an incentive arrangement is required to pay back all or some of the value received because either the performance of the business is later found to be not as good as initially reported, or because the recipient has committed some kind of misconduct which is uncovered after the award was made.

³⁰ See *Legal update, Investment Association principles of remuneration, 11 November 2015*.

³¹ *Fidelity International Limited, Appendix*.

Nearly every new LTIP includes both malus and clawback. They typically apply in a broadly defined set of circumstances including:

- A material misstatement of the audited accounts or other relevant financial information.
- Gross misconduct.
- An error in assessing whether the performance conditions have been achieved.

Market practice defines these circumstances so broadly because it is likely that an attempt to invoke malus or clawback will be litigated.

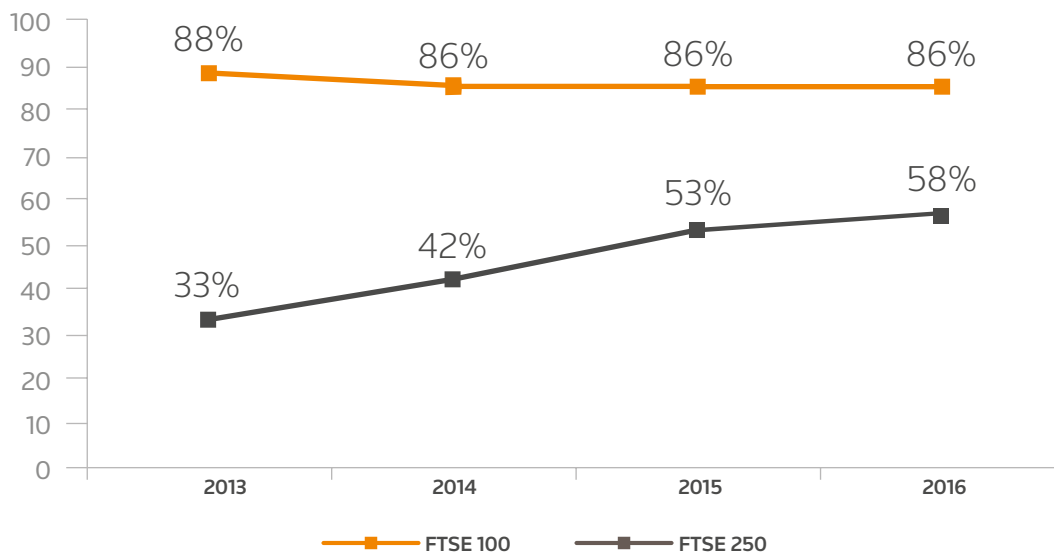
In some cases, there is no time limit on the application of clawback; in theory it continues indefinitely. Some companies do impose a time limit. For example, *BTG plc* can apply clawback for up to three years after vesting.

For more information, see [Practice note, FTSE 350: resolutions to adopt or amend a share scheme in 2016](#).

POLL VOTING

It remains best practice for companies, particularly FTSE 100 companies, to conduct voting by way of a poll to ensure that the AGM runs smoothly and to give greater transparency to the voting figures.

Percentage of FTSE 350 companies that included an automatic poll voting statement in their notice of AGM



Whilst the number of FTSE 100 companies conducting automatic poll voting remained static again this year, the number of FTSE 250 companies that have adopted poll voting has once again increased. 58% of FTSE 250 companies proposed voting by way of a poll rather than by a show of hands at their 2016 AGM compared to 53% during the 2015 AGM season.

ELECTRONIC AGMS

Equiniti is a leading provider of technology and solutions for complex and regulated administration, serving blue-chip enterprises and public sector organisations.

During 2016, Equiniti Registrars delivered the UK's first entirely electronic AGM. In the following report, Equiniti gives an insight into some of the issues that needed to be considered in order to satisfy the statutory and regulatory requirements of conducting an AGM electronically.

EQUINITI

A new era?

The 2016 AGM season saw Equiniti and Jimmy Choo PLC paving the way for a new era of shareholder engagement with Jimmy Choo being the first UK listed company to hold its AGM electronically.

Jimmy Choo's vision was to broaden shareholder access to its AGM, whilst saving travel and time costs for its directors and shareholders as well as the cost to the company of hiring a venue. The company amended its articles of association in 2015 in order to facilitate the change to electronic meetings and Equiniti delivered the company's first electronic AGM on 15 June 2016.

Mindful of the need to satisfy the statutory and regulatory requirements of holding an AGM, Equiniti spearheaded a solution that mirrored all the requirements of a physical AGM but in electronic form, including attendance, presentations, questions and answers and real-time voting. It had to be simple to use and the experience of the investor had to be considered at all times.

Shareholders downloaded the app onto their smartphones, tablets or PC's and, having completed the secure authentication process, reached a homepage branded with Jimmy Choo's logo from which they could log in at the start of the meeting. This provided them with a single access point for the AGM presentation slides and a resolution by resolution approach to voting which was both flexible and legally robust. The app also talked directly to the AGM registration system to allow shareholders to submit questions which could be read and responded to by the chairman during the meeting.

The app was able to be used in conjunction with traditional telephone access with the unique conference ID available from the app once shareholders had completed the authentication process, therefore restricting participation to shareholders and properly appointed proxies.

While the shareholder interaction was conducted via a new technology channel, the shape of the electronic AGM followed that of the more traditional physical version:

- Meeting opened by the chairman.
- Company secretary briefed on the meeting proceedings.
- CEO discussed company performance and strategy.
- Invitation by the chairman to shareholders to ask questions before turning to the formal business of the meeting.
- A poll was taken on all resolutions via the voting app and the meeting was then concluded.

The AGM lasted approximately 30 minutes and was much better attended than Jimmy Choo's first physical AGM in 2015, which evidences the greater appeal and accessibility of an electronic AGM.

Guy Wakeley,
CEO of Equiniti

“

It's fantastic to be credited with not only a significant step forward in the use of technology but also a watershed moment for the standards of UK corporate governance. Use of this technology will not only lighten the burden on companies but also improve engagement with shareholders by making AGMs more accessible.

”

So is this the beginning of a new era for the AGM landscape, especially now such reliable and secure mobile technology is available? This first electronic AGM has excited a lot of interest from other companies, although the pace of change remains to be seen. Will other FTSE 350 companies choose to follow the Jimmy Choo lead or will they consider a hybrid version, offering both a physical and online meeting, as a stepping stone to making the move to a fully electronic AGM?

What's Market

Each reporting season, What's Market tracks those companies that propose amendments to their articles of association. Mindful of the new developments that have taken place this AGM season in relation to electronic meetings, we will, in particular, monitor those companies that seek changes to their articles to provide for general meetings to be held electronically. From our review this year, one company has so far specifically sought shareholder approval to amend its articles to provide for electronic meetings.

For further details, see ***What's Market: AGMs: FTSE 350: 2016: Details of any amendments to articles or adoption of new articles.***

VOTING RESULTS

This part of the report covers 283 **FTSE 350** premium equity commercial companies that published their notice of AGM on or before 28 October 2016 and held their AGM and published the results between 1 January 2016 and 28 October 2016 (97 **FTSE 100** companies and 186 **FTSE 250** companies).

So far this reporting season, nine resolutions have not been passed, three of which were in relation to the remuneration report, one in relation to the remuneration policy and five comprising an assortment of other resolutions.

DIRECTORS' REMUNERATION

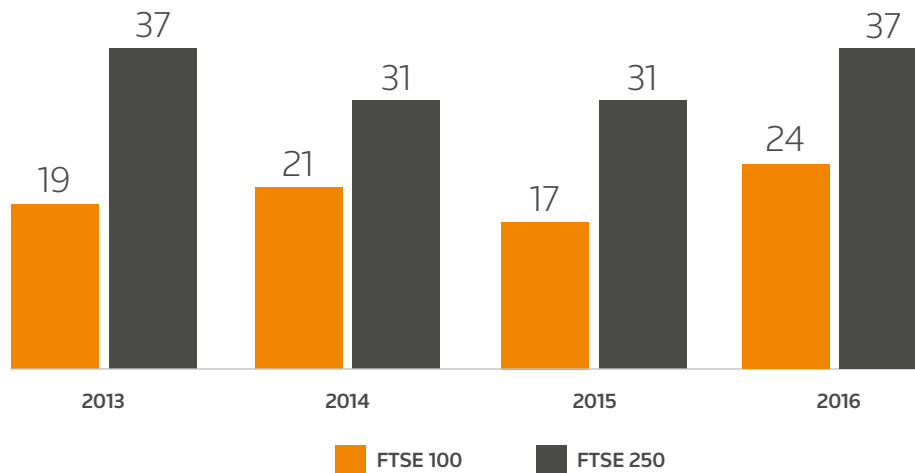
What's Market has monitored the shareholder votes cast on both the advisory resolution to approve the remuneration report (annual remuneration report) and the binding vote to approve the remuneration policy.

In summary, three companies failed to attain sufficient shareholder support for the annual remuneration report resolution to be passed and one company failed to attain sufficient shareholder support for the remuneration policy resolution to be passed.

Annual remuneration reports

What's Market has monitored those companies where a resolution to approve the annual remuneration report has been passed, but the company has received a substantial vote (between 10% and 49.9%) against the resolution.

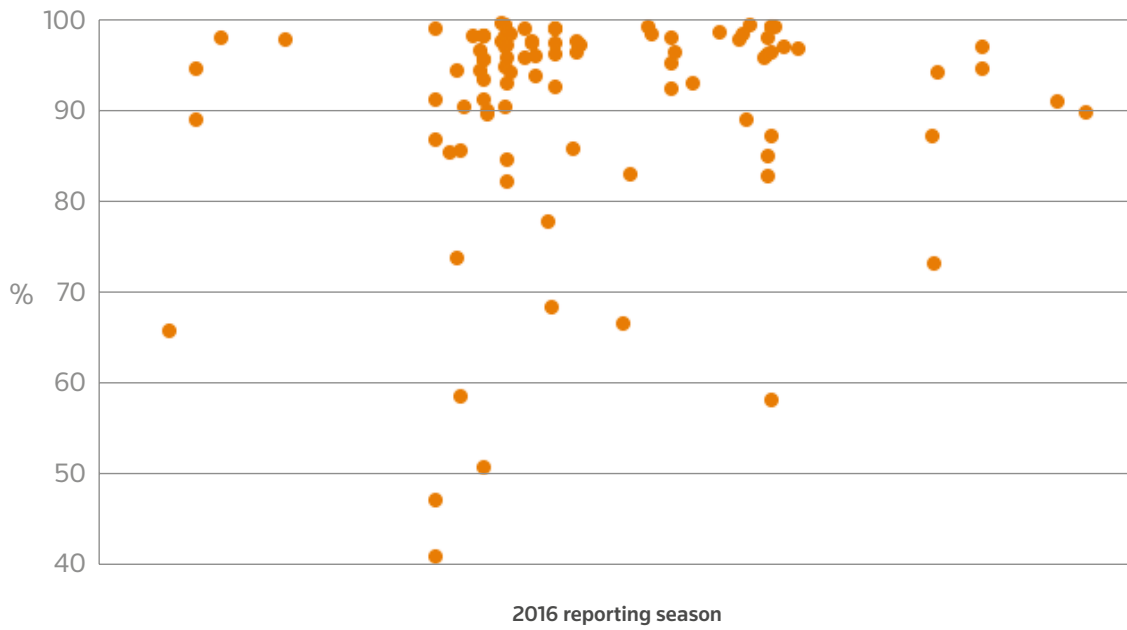
Number of FTSE 350 companies that received between 10% and 49.9% of votes against the annual remuneration report



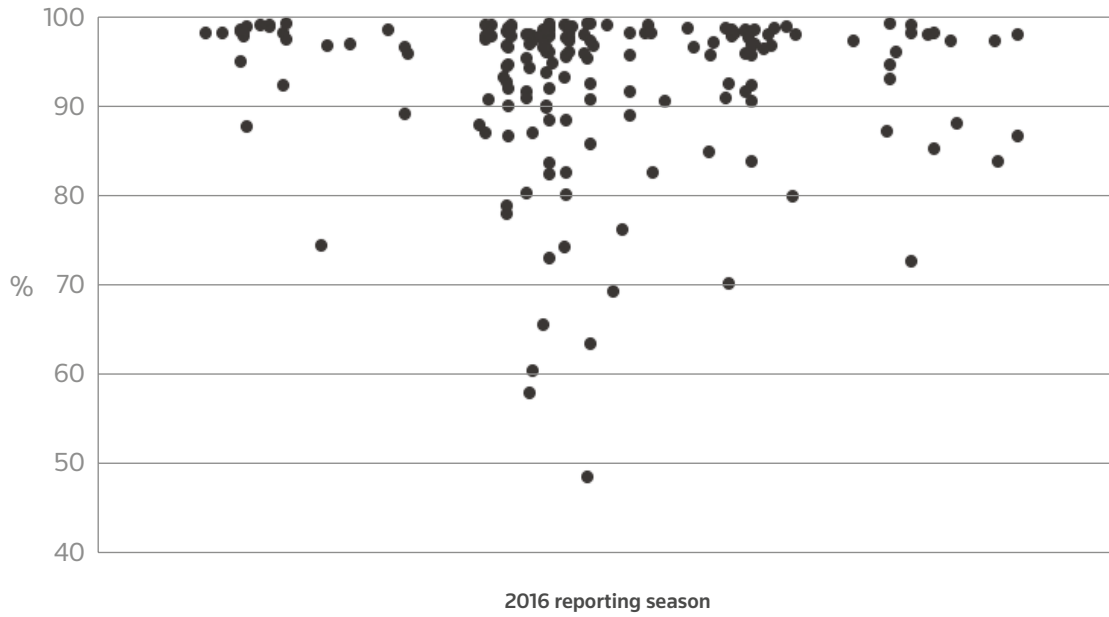
Whilst the number of FTSE 350 companies receiving a substantial vote against their remuneration report decreased between 2013 and 2015, the 2016 AGM season has seen an increase in the number of companies receiving less than 90% of votes in favour of the resolution. In addition, our analysis has also shown that, of the FTSE 100 companies reviewed during the 2016 reporting season, the average percentage of votes received in favour of the annual remuneration report was 90.9%, which is slightly down in comparison to last year (92.8%). There has also been a slight decrease in the average percentage of votes in favour received by FTSE 250 companies, with an average of 93.8% this year compared to 94% during 2015.

For an overview of the voting results, see the following graphs.

Votes in favour of the annual remuneration report: FTSE 100



Votes in favour of the annual remuneration report: FTSE 250

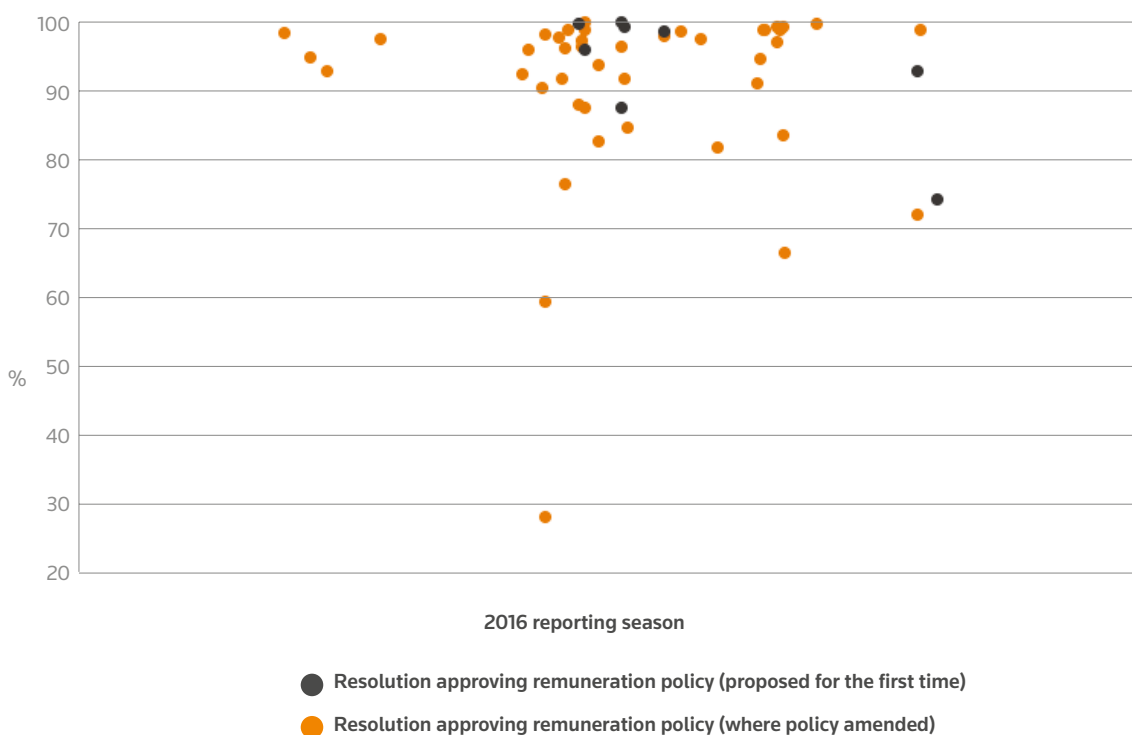


Remuneration policies

What's Market has analysed the voting results of the FTSE 350 companies reviewed that have sought shareholder approval for their remuneration policy for the first time compared to those companies that have proposed an amendment to their policy during the 2016 AGM season.

Our analysis indicates that, as with the 2015 reporting season, the average percentage of votes cast in favour of the resolution to approve the remuneration policy for the first time in 2016 is higher (93.5%) than the average percentage of votes cast in favour of the resolution to amend the remuneration policy (90.7%). However, the average percentage of votes cast in favour of both the new policy resolution and the amending policy resolution this year is lower than the equivalent average percentages of votes cast during 2015 (95.8% and 93.6% respectively).

Votes in favour of the remuneration policy: comparison of FTSE 350 companies proposing policy for the first time with companies proposing amendments



SUBSTANTIAL VOTES AGAINST RESOLUTIONS

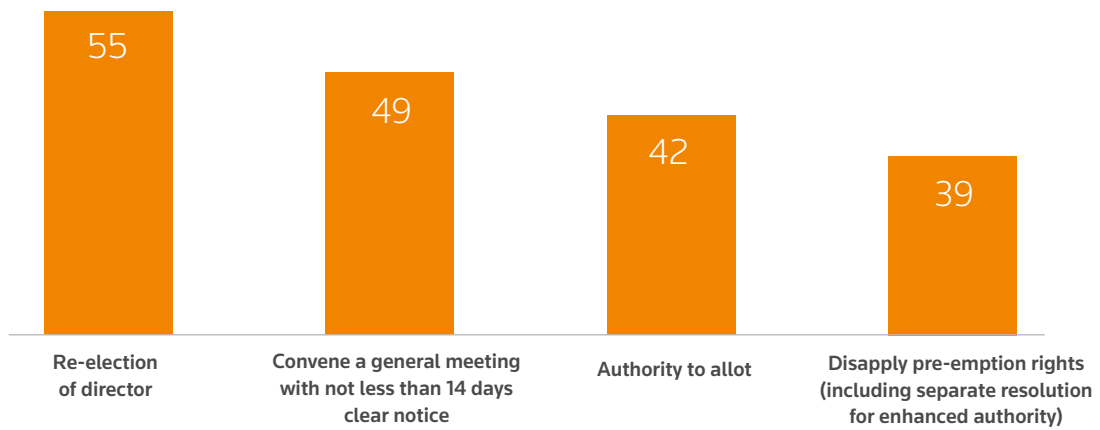
The 2014 version of the Code requires a company that, in the opinion of the board, received a significant proportion of votes against any resolution, to explain in the announcement of its voting results what action it intends to take to understand the reasons behind the result (Provision E.2.2).

Although “significant dissent” is not defined for the purposes of the Code, in its Proxy Voting Guidelines³², ISS stated that it sees a consensus emerging of a figure somewhere in the range of 20% to 30% as a threshold for significant dissent, although ISS notes that market practice is bound to evolve in this area given this is a new provision in the 2014 Code.

Of the 283 companies that have held their AGM so far this year, 133 companies have seen 216 resolutions (not including resolutions relating to directors’ remuneration) receive more than 10% shareholder opposition. The following graph illustrates the four resolutions proposed by companies that received the highest proportion of votes against. These four resolutions comprise 86% of the substantial votes received against the 216 resolutions proposed during the 2016 AGM season.

32 *United Kingdom and Ireland Proxy Voting Guidelines: 2015 Benchmark Policy Recommendations, published 7 January 2015.*

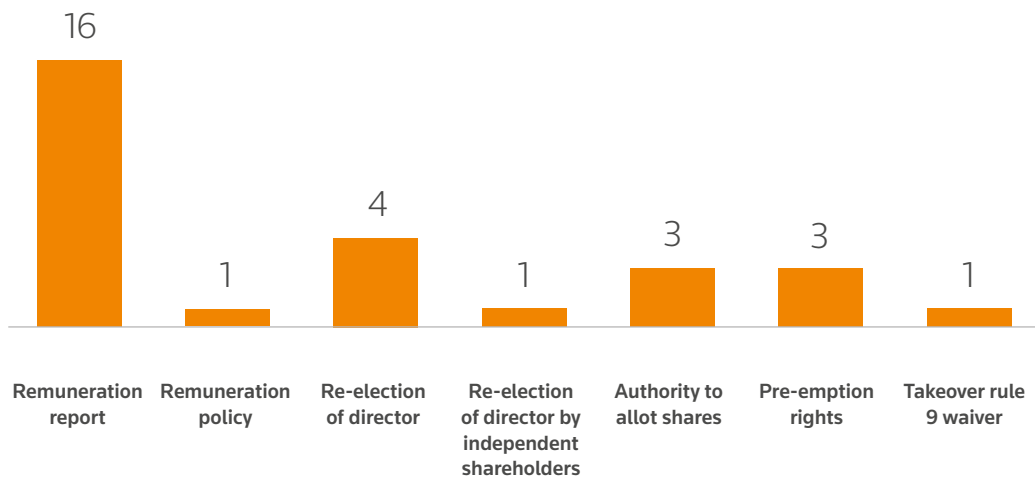
Number of FTSE 350 companies with substantial votes against resolutions proposed at their AGM



Of the 133 FTSE 350 companies that recorded a substantial vote against a resolution proposed at their AGM in 2016, What's Market has noted that only 28 companies (one of which included a statement in respect of two resolutions) have so far provided a statement in accordance with Provision E.2.2 of the Code in their voting results. Our analysis of the voting results shows that the percentage of votes against the resolutions proposed by these 28 companies ranges from 15% to 72%.

It will be interesting to see if further disclosures are made in the 2016/17 annual reports.

Number of statements following substantial votes against resolutions



A ROUND UP OF FURTHER TRENDS

BREXIT DISCLOSURES SO FAR

Of the 42 companies that have published their notice of AGM since the UK referendum result to leave the European Union on 23 June 2016, 15 have included a statement in their annual report disclosing the potential impact of Brexit. Of these 15 companies, seven have included Brexit as one of their principal risks set out in their strategic report.

BUY BACK OF SHARES

174 companies proposed a resolution seeking a general authority for the company to purchase its own shares. Of these companies, 18% (49 companies) included a reference to the Market Abuse Regulation (Regulation 596/2014), which applied with effect from 3 July 2016, in either the resolution and/or the explanatory notes of the notice of AGM.

During the 2016 reporting season, 48 companies (25 FTSE 100 and 23 FTSE 250) repurchased their own shares in the market.

DIVIDENDS

232 companies (73 FTSE 100 and 159 FTSE 250) proposed a resolution to approve a dividend at their 2016 AGM. 102 (32 FTSE 100 and 70 FTSE 250) companies set out the record date for the dividend in the resolution. 92 (29 FTSE 100 and 63 FTSE 250) companies set out the payment date for the dividend in the resolution.

NON-AUDIT FEES

120 companies (49 FTSE 100 and 71 FTSE 250) disclosed the level of non-audit fees in their audit committee report.

REMUNERATION POLICIES START DATE

Of the 55 FTSE 350 companies that sought approval of their remuneration policy at this year's AGM, 49 companies provided that the policy, if approved, would take effect from the date of the AGM and one company provided that the policy, if approved, would take effect from 1 January 2016. The remaining five companies did not disclose the start date of the policy. Only nine companies included the start date in the resolution.

REQUISITIONED RESOLUTIONS

Six companies (five FTSE 100 companies and one FTSE 250) proposed resolutions which had been requisitioned by shareholders during the 2016 AGM reporting season, three of which failed to receive sufficient shareholder support to be passed.

SCRIP DIVIDENDS

14 companies (8 FTSE 100 and 6 FTSE 250) included a resolution to approve a scrip dividend alternative.

LOOKING AHEAD TO 2017

Some of the key areas companies will need to consider include:

BIS SELECT COMMITTEE INQUIRY ON CORPORATE GOVERNANCE

Consideration will need to be given to any developments arising from the House of Commons BIS Select Committee inquiry on corporate governance during the next reporting season, in particular whether, as a result of the inquiry, any amendments will be made to the current narrative reporting requirements.

BREXIT

Following publication by the FRC³³ of a statement about the need for boards to consider whether disclosures related to the Brexit vote are necessary in their annual reports, companies will need to think about how they articulate the impact of Brexit in their narrative reporting during 2017.

FRC REPORT: CORPORATE CULTURE AND THE ROLE OF THE BOARDS

Following publication of the FRC's report³⁴, boards may wish to consider how the company's culture can be reflected in its annual reporting and, in particular, what disclosures are required to provide meaningful links between the company's culture, strategy and/or the business model.

GENDER PAY GAP

Private and voluntary organisations with 250 or more employees will be required to publish their first gender pay report on their website, and upload to a government website, by 29 April 2018 at the latest. The report must disclose the difference between the male average pay and female average pay as at 30 April 2017 and the average bonus pay gap calculated over the 12 months preceding that date. There is no requirement to publish gender pay gap information in a company's annual report but it remains to be seen if companies choose to do so.

NON-FINANCIAL AND DIVERSITY INFORMATION

Following publication of the amending directive on the disclosure of non-financial and diversity information, companies that are public interest companies will need to consider enhanced disclosures relating to environmental, social and employee matters, respect for human rights, anti-corruption and bribery matters. It is likely that implementation will involve changes to the strategic report requirements in the Companies Act 2006 and will apply to all relevant undertakings for the financial year starting on 1 January 2017 or during the 2017 calendar year³⁵.

PROMPT PAYMENT

It is expected that large companies and large LLPs with financial years beginning after 6 April 2017 will need to publish, in a prominent position on their website, specified information regarding their payment of suppliers which must be updated every six months.

UPDATED UK CORPORATE GOVERNANCE CODE

Following publication by the FRC of the 2016 version of the Code, companies with financial periods beginning on or after 17 June 2016 will be required to comply with updated Code provisions C.3.1, C.3.7 and C.3.8.

33 FRC press release, "Reminders for half-yearly and annual financial reports following the EU referendum", dated 12 July 2016.

34 See *Legal update, Corporate governance: FRC report on corporate culture and the role of boards*, 20 July 2016.

35 See *Legal update, Narrative reporting: BIS consultation on UK implementation of the non-financial reporting directive*, 16 February 2016.

METHODOLOGY

Practical Law's What's Market contains summaries of FTSE 350³⁶ premium equity commercial companies³⁷ AGM notices and certain aspects of the annual reports and voting results. What's Market does not review AGM notices of FTSE 350 close ended investment funds³⁸.

The findings set out in this report are based on the information compiled by Practical Law in its What's Market database. A substantive part of the report is based on factual information as set out in a company's annual report or notice of AGM. However, in order to provide a meaningful analysis we have used our discretion as to the interpretation of certain disclosures contained in these public documents.

The report includes comparable data for reporting years 2013 to 2016:

	Narrative reporting, notice and poll voting sections	Voting results section (apart from poll voting section)
2016	299 FTSE 350 premium equity companies that have published their AGM notice on or before 28 October 2016 and held, or will hold, their AGM between 1 January 2016 and 31 December 2016. 99 FTSE 100 companies and 200 FTSE 250 companies.	283 FTSE 350 premium equity companies that have published their AGM notice on or before 28 October 2016 and held their AGM and published their results between 1 January 2016 and 28 October 2016. 97 FTSE 100 companies and 186 FTSE 250 companies.
2015	305 FTSE 350 premium equity companies that have published their AGM notice on or before 30 October 2015 and held, or will hold, their AGM between 1 January 2015 and 31 December 2015. 98 FTSE 100 companies and 207 FTSE 250 companies.	290 FTSE 350 premium equity companies that have published their AGM notice on or before 30 October 2015 and held their AGM and published their results between 1 January 2015 and 30 October 2015. 93 FTSE 100 companies and 197 FTSE 250 companies.
2014	300 FTSE 350 premium equity companies that have published their AGM notice on or before 31 October 2014 and held their AGM between 1 January 2014 and 31 December 2014. 99 FTSE 100 companies and 201 FTSE 250 companies.	285 FTSE 350 premium equity companies that have published their AGM notice on or before 31 October 2014 and held their AGM and published their results between 1 January 2014 and 31 October 2014. 95 FTSE 100 companies and 190 FTSE 250 companies.
2013	295 FTSE 350 premium equity companies that have published their AGM notice on or before 18 October 2013 and held their AGM between 1 January 2013 and 31 December 2013. 96 FTSE 100 companies and 199 FTSE 250 companies.	282 FTSE 350 premium equity companies that have published their AGM notice on or before 18 October 2013 and held their AGM and published their results between 1 January 2013 and 8 November 2013. 93 FTSE 100 companies and 189 FTSE 250 companies.

36 A company's FTSE classification is dependent upon its position as at the date of its notice of AGM. What's Market tracks the quarterly FTSE index reviews of the FTSE 350 and AIM 50.

37 As classified by the London Stock Exchange.

38 As classified by the London Stock Exchange.

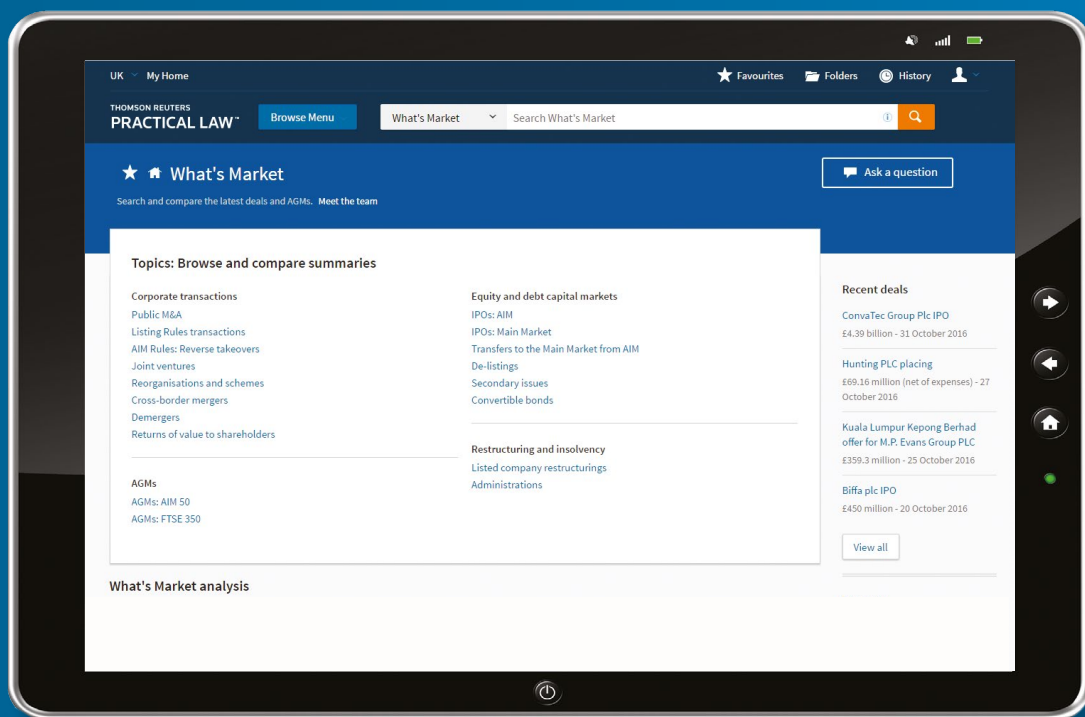
PRACTICAL LAW RESOURCES

A selection of Practical Law practice notes, checklists and standard documents:

- *A guide to Practical Law's UK corporate governance materials*
- *A toolkit for annual general meetings*
- *Dates of FTSE 100 companies' AGM*
- *General meetings: overview*
- *Annotated UK Corporate Governance Code: Index*
- *Strategic report*
- *Directors' remuneration report*
- *Directors' report*
- *Viability statement*
- *Gender diversity in boardrooms*
- *Statutory Audit Directive: overview*
- *A toolkit for the Modern Slavery Act 2015*
- *Accounting Directive: overview*
- *Checklist: Annual reporting and accounts: quoted companies*
- *Terms of reference for the audit committee (premium listed company)*
- *Terms of reference for the remuneration committee (premium listed company)*
- *Terms of reference for the nomination committee (premium listed company)*
- *Chairman's AGM script: voting on a show of hands*
- *Chairman's AGM script: voting on a poll*
- *Annual report and accounts: best reporting*
- *What's Market templates*
- *FTSE 350: resolutions to adopt or amend a share scheme in 2016*

WHAT'S MARKET

Get an **instant snapshot** of market practice with our easy search and compare tool.



DISCOVER TODAY'S TRENDS.

How many formal sale processes resulted in a firm offer for the target?

How many FTSE 350 companies sought shareholder approval for an enhanced disapplication of pre-emption rights?









How many FTSE 350 companies have included a statement in their annual report disclosing the potential impact of Brexit on their business?

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CORPORATE

Our corporate experts have experience at the world's leading law firms. They create and maintain an extensive bank of online practical resources to help you stay up to date with these developments and advise with confidence.

THE RESOURCES

-  **E-mail updates** with analysis and daily alerts, so you never miss an important development.
-  **Practice notes** with clear explanations of law and practice to help you advise with confidence.
-  **Standard documents and clauses with drafting notes**, so you spend less time reinventing the wheel.
-  **What's Market database** of UK public company transactions and AGM materials so you can keep up to date with market practice.
-  **Legislation trackers** to help you follow the progress of key UK and EU legislation.
-  **Checklists and flowcharts** so you can ensure you have covered everything.
-  **Ask** for fast answers to your queries.
-  **Global guides** comparing the law worldwide.

THE COVERAGE

COMPANY LAW

- Company administration and meetings
- Company formation and constitution
- Corporate governance
- Directors
- Financial reporting
- Share capital: structure, allotment and transfers
- Shareholder rights and remedies

EQUITY CAPITAL MARKETS

- AIM
- Initial public offerings
- Listing, Prospectus, Disclosure and Transparency Rules
- Rights issues and other secondary issues
- Financial promotion
- Market conduct
- Prospectus and marketing
- US securities law: issues for non-US companies

CORPORATE TRANSACTIONS

- Acquisitions: auctions
- Asset acquisitions
- Share acquisitions: private
- Public mergers and acquisitions
- Joint ventures
- Private equity and venture capital
- Reorganisations, schemes and demergers
- Returns of value

PARTNERSHIP LAW

- Partnerships and LLPs

OTHER

- General contract and boilerplate
- Bribery and sanctions offences

HORIZON SCANNING



- Key corporate legal developments which will impact companies over the next few years

WHAT'S MARKET

Our What's Market tool allows you to search and compare company transactions and AGM materials, create custom reports and link directly to underlying public documents.

What's Market now has 16 deal types.

THE FEATURES

-  **Search for details** of recent deals or AGMs
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-  **Review search results** and browse deal terms
-  **Compare features and terms** of up to 100 deals or AGMs
-  **Export comparison** Word® or Excel®
-  **Access public documents**; such as announcements, notices, circulars and prospectuses

THE COVERAGE

- Public M&A transactions
- AGMs
- Secondary issues
- Main Market IPOs and admissions to AIM
- Returns of value to shareholders
- Listing rules transactions
- AIM Rules: Reverse takeovers
- Reorganisations and schemes
- Cross-border mergers
- De-listings
- Convertible bonds
- Demergers
- Transfers to the Main Market from AIM
- Joint ventures
- Restructurings
- Administrations

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Our Corporate team is made up of former practicing lawyers with significant experience in leading law firms and legal departments. Here are some of the team members.



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Head of the Corporate team at Practical Law

Previous experience at:
Allen & Overy



Hilary Owens Gray

Deputy head of the Corporate team at Practical Law

Previous experience at:
Pinsent Masons,
Baker & McKenzie



Amanda Cantwell

Author of report

Previous experience at:
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Caroline Pearce

Previous experience at:
Nabarro LLP, Forsters LLP



Naomi Bellingham

Previous experience at:
Slaughter and May



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