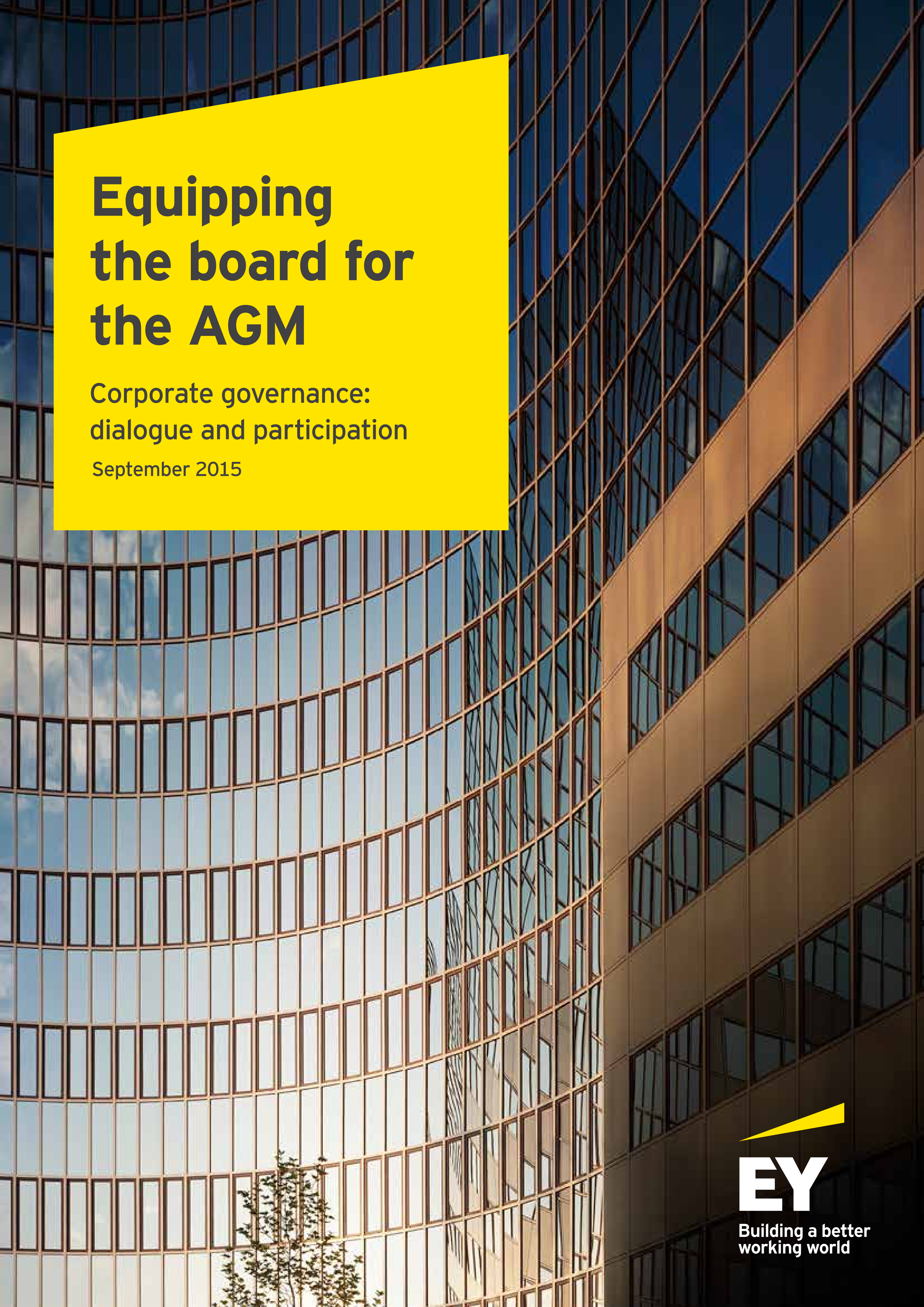
Equipping the board for the AGM

Corporate governance: dialogue and participation

September 2015



Building a better working world

www.ey.com/au/en/issues/governance-and-reporting

Equipping the board for the AGM

Boards, executives and investors have entered the annual general meeting (AGM) season to make sense of ongoing global economic uncertainty, sovereign debt issues in Europe and slowing growth in China. These global issues remain at the forefront for many Australian companies in the run up to the 2015 AGM season as they seek to identify the risks and opportunities presented when combined with the domestic agenda.

Fluctuations in currency markets and the ever present threat of impairment from traditional triggers continue to provide the backdrop for many businesses today as they position themselves for sustainable growth. Likewise, online or new technology developments and access to the right sources of funding and capital structures.

Cost models are being routinely assessed, particularly for those competing against lower cost labour models. Many boards are revisiting off-shoring and out-sourcing operating models resulting from a 'laser-focus' on cost. Divestments of business units or standalone subsidiaries to free up capital for reinvestment in core activities are an increasing feature now alongside traditional M&A activity where Australian companies are starting to catch the eye of overseas operators. New thinking is emerging in people and talent matters as well as renewed attention on the importance of culture.

Politically there has been much discussion over Australia's relationship with our Asian neighbours and what this means for sovereign risk and the resulting impact on foreign investment. Leadership spills have returned this month and the consequences of future policy decisions for corporate strategies remain to be seen. For now, outside of Canberra this has translated into the State elections where in recent months the debate over national assets and infrastructure networks has been prominent.

From a policy perspective, we continue to see domestic interest rates at historic lows yet for many households, home affordability remains a real issue as does unemployment leading to questions as to how government and business, whether big or small, can work together to create more jobs.

EY's *Global Governance, Risk and Compliance* survey released in July 2015 commented:

Organisations today are challenged with managing a rapidly changing risk landscape. Reports in the media illustrate the increasing risks faced by organisations: market volatility, geopolitical crises, wide-spread economic changes, regulatory reforms and cyber threats. Long-term patterns such as the aging population, the rise of hyper connectivity and increasing geographic mobility are also having a direct effect on organisations worldwide.

Many of these factors are not new, however the important feature of this commentary for boards and management teams today is the speed at which such issues can arise and the depth of the impacts which can follow.

Consider the sharp declines in the oil and iron ore prices, natural disasters such as Cyclone Pam in Vanuatu and closer to home, Cyclone Nathan that hit far north Queensland and the Northern Territory or the unpredictability of an event such as the Martin Place siege. The impact for Australia from the growth prospects in key economies such as the US and China together with the medium term implications of the Eurozone bailout package prepared for Greece may be less immediate but they will need to be monitored closely.

Collectively these factors have delivered turbulence and uncertainty in global stock markets and the domestic exchange here in Australia.

Directing and managing in and around these issues is a challenging and demanding task and one which sets the scene for investors, shareholders and analysts to contextualise company performance as they take their seats at AGMs.

The material in this publication is a guide on potential areas of focus for shareholders at forthcoming AGMs with questions and topics that the board should consider, as well as a reminder of some of the basic rules of AGM preparation.

To help you prepare or for a more in-depth discussion on broader corporate governance issues, please call your EY contact.

Mike Wright
EY Oceania Assurance Managing Partner

The changing governance landscape and the future role of the AGM

This is the first AGM season in which the third edition of the ASX Corporate Governance Council's Corporate Governance Principles and Recommendations (Principles and Recommendations) will be reported against.

Key call outs

Corporate reporting

- The original principle 4.1 was titled: Safeguarding Integrity in 'Financial' Reporting. This has now been changed to: Safeguarding Integrity in 'Corporate' Reporting recognising the trend towards greater reporting on non-financial matters
- Investors and shareholders are now increasingly focused on the messages and insights to be drawn from your corporate reporting in its broadest sense and will demand consistency with more traditional financial reporting

Risk

- Recommendations on risk have been enhanced to reflect the lessons of the global financial crisis and encourage consideration of whether you have sufficient understanding of the risks -and opportunities -facing you
- An expanded definition of risk has been developed to encourage disclosure of any material exposure to economic, environmental and social sustainability risks and, how those risks are managed
- Boards are now increasingly expected to be able to articulate how they have oversight on the 'risks that matter' particularly those which can impact corporate reputation or threaten business continuity

Board skillsets

- Recommendation 2.2 states that a listed entity should have and disclose a board skills matrix setting out the mix of skills and diversity that the board currently has or is looking to achieve in its membership
- Investors and shareholders will be interested in the definition and discussion of relevant skills when considering your board nominations and re-elections at the AGM

The third edition represents the first opportunity for the ASX to reassess the Principles and Recommendations since the global financial crisis and while some major jurisdictions were unwinding their governance frameworks because of unworkability, Australia was able to refresh its approach rather than undertake a rewrite.

In addition to the Principles and Recommendations, those operating in the financial sector will need to be aware of the findings of the report by the Committee of the Murray Inquiry into the Financial System. Investors and stakeholders will want to know how organisations have improved their governance and operating models to address the report's findings of reducing risk and where relevant, improving independence.

Finally the governance discussion in Australia today is being heavily influenced by culture and how conduct and behaviours within an organisation manifest themselves on a day to day basis. As a market regulator, it is interesting to note recent public announcements by ASIC on the topic of culture such that any organisation that has encountered issues – public or otherwise – on culture, conduct or behaviours should prepare a response to questions on these matters.

The future of the AGM

Despite only 10% of large companies reporting that 300 or more investors attended the 2013 annual general meeting — only 0.5% of the shareholder base — costs per shareholder have skyrocketed by 38% since 2011, Governance Institute of Australia's *Benchmarking Listed Company Secretarial Practice in Australia 2014*.

With some notable exceptions, often the number of visitors at an AGM (media, advisors etc.) outweighs the number of shareholders attending, leading many to question its value given the cost and time required to organise meetings. Headlines continue to question the current format and structure of the AGM:

- **AGMs dying a slow, excruciating death new survey confirms,** (Governance Institute of Australia, 10 June 2014)
- **Are Annual Meetings Still Necessary?** (The Wall Street Journal, John Stoll, 10 June 2015)
- **For AGMs to work, the public must ask hard questions and leaders must listen.** (The Guardian, Lucy Marcus, 1 July 2015)

Prior to the decision in July 2014 to abolish Corporations and Markets Advisory Committee (CAMAC), the future of the AGM was being debated around the following issues:

- Strategies to increase attendance and improve shareholder engagement
- Debate around separating the AGM from the financial reporting obligations of companies
- Exploring the merits of mechanisms that will allow for virtual or online AGMs

These questions remain to be explored to improve what was originally intended to be the primary tool for shareholder engagement. According to Trisha Mok, EY's Oceania Corporate Secretarial Services Leader, with "the average cost for a large company staging its AGM being upward of $280,000, AGMs clearly need to change radically, but it is a challenge for companies to find better ways of engaging with shareholders".

Despite these comments and some of the negative headlines, it remains the case that a well-run AGM reflects positively on governance, builds confidence in the board and contributes to shareholder value. Furthermore, until a better solution is provided they also offer the only opportunity for shareholders to interact with the board on a face to face basis.

Therefore, as long as AGMs exist in their current form, planning and early engagement will always be key to mitigate difficult discussions come meeting time. The following pages provide commentary on the potential areas of focus for shareholders along with questions or topics that you should consider.

Possible future means of shareholder engagement?

1. **AGM could be redesigned in some manner or be abolished:** limit the AGM to deliberative and decision-making functions, separate out the decision-making function of the AGM or completely abolish requirement.
2. **Hybrid physical-online meeting:** In some overseas jurisdictions, including Delaware in the United States, companies may permit shareholders to participate and vote at an AGM (or other shareholder meeting) through electronic means, employing the Internet i.e., direct electronic voting via mobile apps/ QR Code.
3. **Online-only meeting:** Another approach is to permit companies to dispense altogether with the physical or hybrid AGM and conduct online-only AGMs. Under this approach, the chair and other corporate representatives would be 'live' at one or more locations, but with all proceedings conducted online and with no opportunity for shareholders to be physically present at any of those locations.
4. **Virtual meeting:** Another possibility is to go beyond the online-only meeting and permit a company to dispense with any requirement for the chair and other corporate representatives to be present or 'live' at any location. The meeting could be conducted solely through electronic presentations, discussions and voting procedures, according to an agenda timetable published and operated electronically.

It will be interesting to watch these and other innovations in the years ahead.



Financial reporting

Financial reporting complexity requires a communication mindset to drive better reporting and greater engagement.

A key objective of the third edition of the Principles and Recommendations was to reflect the benefits of technological advances to help listed entities streamline their reporting and provide stakeholders with increased access to information. In doing so there is now greater flexibility for listed entities to make governance disclosures on their website rather than in the annual report. To illustrate this, of the 68 companies who early adopted the third edition, 80% placed their governance disclosures on their website.

In terms of what this means for investor and stakeholder communication more broadly, the growth in digital and social media has changed the capacity of stakeholders to engage with complex, technical information. It also increased expectations of being able to access clear, concise, real-time information on a range of issues.

Companies have also made good use of these new channels to engage their audiences in a more or less continuous exchange of information. Marketing, PR and particularly social media are increasingly called in to promote a company's reputation and engage potential investors as well as consumers.

This does not always sit comfortably with the more constrained and consequential world of corporate reporting. The risk of inadvertent breach of continuous disclosure obligations and the potential for inconsistency have led to increasing recognition that market communications — including reporting and the AGM — should be coordinated and managed as a whole.

Directors and management should consider the following financial considerations likely to be top of mind for shareholders.

Operation and financial review

- Has an analysis of business performance and operations been presented in the context of the entity's business model?
- Have the underlying drivers of performance been identified and explained by analysis, significant factors or events?
- Are the disclosure of business strategies and prospects sufficiently detailed to allow shareholders to make an informed assessment of the entity's business strategies and prospects for future financial years?
- Have relevant, material business risks that could impact expected financial performance and outcomes been clearly identified?

Financial performance and financial position

- Is non-statutory financial information prominent over and above statutory information, and if so, why?
- Why have recurring items such as amortisation and fair value adjustments been removed from profit measures?
- How consistent is the presentation of adjustments from statutory to non-statutory profits across market releases and trading updates as well as compared with prior periods?
- How does your approach differ from the current reporting practices of the industry and other competitors?
- Why are measures other than those used by the chief operating decision maker in the operating segment note necessary to understand the financial performance of the entity?
- Why are different measures required to talk about the same information?
- What exposures (or opportunities) are present from joint venture arrangements?

Asset valuations

- How robust are current asset valuations given recent events?
- To what extent have changes in bond rates or market transactions in similar assets influenced valuations?

As always, impairment is a focus area for ASIC for 2015. Directors should be prepared to answer the following questions:

- How has the approach to asset impairment, including goodwill, investments, inventories, receivables and financial instruments changed for 2015?
- How aggressive or assertive are the assumptions which have been used in this year's impairment assessment?
- How does this compare to prior periods and competitors?
- How much do key assumptions used in the impairment model need to change to result in impairment / further impairment?
- How have boards considered the impact of impairment in respect of debt funded acquisitions where the economic outlook has deteriorated significantly?
- Where market capitalisation has fallen below the value of net assets, how have directors satisfied themselves that no further impairment is needed?

Discussion of key judgements and estimates

Shareholders will look for clarity in disclosures and around significant judgement and estimates in the annual report.

- How have these been challenged by the directors?
- How do they compare against industry or peer examples?
- Where have changes taken place during the year and why?

Shareholders will expect the board to address areas where judgement and estimates are required, such as:

- Acquisitions and divestments
- Legal claims
- Relationships with third parties
- The impacts of movements in markets, particularly changes in dollar exchange rates and impact on derivative positions
- Impairments of intangibles and goodwill
- Going concern and debt classification
- Revenue recognition and in particular the likely impact of the new revenue recognition standard as currently proposed
- What effect will the new lease accounting standard have on the balance sheet position and financial ratios?

Liquidity

- How would you describe the current financial position of the company?
- How can the board demonstrate that it has robustly challenged and reviewed cash flow forecasts and working capital management?
- How has recent exchange rate or oil/ iron ore price volatility been assessed when preparing such forecasts?
- To what extent has management to consider:
    - Drawing on available commitments
    - Selling underperforming assets and operations to unlock liquidity
    - Cross-border repatriation of funds
    - Selling inventory for cash replenishment
    - Bolstering collections and credit functions
- How has the completeness of bank guarantees been captured and disclosed?

Human capital

- Does the business plan allow for redundancies in response to current conditions?
- What will be the cost of any potential redundancies or other pension funding and labour regulations?
- What plans are in place to ensure key personnel do not leave the business at this time without resorting to exorbitant packages?

Debt management

- How has the board satisfied itself that its classifications around debt are correct?
- How would you describe the relationships with your key lenders of finance?
- How has the company sought to build transparent relationships with debt providers, equity analysts and rating agencies?
- What is the debt retirement strategy of the business?
- What is the current performance against banking covenants?
- Have all triggers of covenant default been reviewed and assessed across all agreements, business activities and group entities to address the risk of contagion?
- Has it been necessary to strengthen debt management processes by renegotiating debt covenants; negotiating extended payment terms with suppliers; and/or, assessing access to short-term capital?
- Does the company have any plans to go to market for additional capital raisings and if so, will it be made available to all classes of shareholder?

Ability to operate

- Has the board formulated a takeover defence plan, where appropriate, to protect shareholder value?
- What is the board's strategy for engaging with substantial minority shareholders present on the register and managing the prospect of 'takeover by stealth'?
- Has there been a need to identify, assess or restructure toxic and distressed assets and operations?
- Has the company reviewed its supply chain and third party relationships for vulnerability and fit? What were the results of this review?
- How has the board determined the impact of the industrial relations landscape on its operations?
- What impacts did previous stimulus packages and/or investment allowances have on trading performance? What plans are in place going forward to the extent these are unlikely to recur?

Financial reporting effectiveness

Boards preparing for upcoming AGMs should be able to discuss with shareholders how their company is positioned, the flexibility of its financial and operating models against current market conditions and demonstrate clear reconciliation to statutory profit.

As illustrated by the topics outlined above, the requirements of financial reporting have become increasingly complex and detailed. We know that investors struggle to understand the basis on which results have been calculated and what results are telling them about the reality of corporate value and performance.

Recognising this, companies are increasingly taking steps to improve the quality of their financial reports by focusing on the clarity and relevance of the information provided, rather than just compliance with accounting standards.

By focusing firstly on what investors need to know, and ensuring it is presented in a way that tells the story of performance and value, companies are adding real value to what can be the costly and difficult process of producing the financial report. An effective financial report enhances the reputation of both the company and the board, and supports trust in management and stronger market valuations.

- What changes have you made to the presentation, style and content of your financial report?

Tax transparency

The recent Senate enquiry into corporate tax avoidance and the upcoming publication by the ATO of key tax numbers for many companies is likely to mean the spotlight will be on tax issues in this AGM season. The potential is high for tax issues to be misunderstood or misrepresented and directors should be prepared with clear answers and strong messages about the appropriateness of their tax practices and the strength of their tax governance.

- Are you prepared for questions around your tax profile in light of the ATO guidance?

ASIC's activity on financial reporting

ASIC continues to be active in its surveillance of financial reporting and of the audit function through the inspection process targeted at public company audits. At times, points noted in the inspection may become a focus of ASIC discussion with a company. ASIC has been particularly challenging in the area of impairment testing of intangibles and other assets, especially mining assets.

Since 1 July 2014, we have seen seven cases where significant impairments have been prompted by ASIC's inquiries. ASIC has issued press releases on each of these cases, specifically naming the company involved. This use of the press release is new and it seems to be aimed at "naming and shaming" these companies.

In another initiative ASIC has launched an on-line quiz on financial reporting, aimed at the director community reinforcing the importance they place on this aspect.

Board and executive remuneration

Understanding focus areas for shareholders around board and executive remuneration issues is just one step in executing a successful AGM. Implementing a well prepared, flexible strategy leading up to, and following the AGM will help companies address any shareholder concerns.

Focus areas for boards and shareholders

Boards and shareholders are focused on the same key issues around board and executive remuneration in the 2015 AGM season.

Recent EY research identified executive remuneration and succession planning as the most important people and talent issues for boards.

In particular, boards are focused on:

- Ensuring remuneration opportunities and incentive plan outcomes reflect company performance
- Linking the company's remuneration approach to business strategy.

Similarly, shareholders and proxy advisors continue to focus on remuneration outcomes vs. performance. In the current economic environment, they are particularly focused on companies whose results have decreased year-on-year.

Proxy advisors and institutional investors are increasingly open to remuneration structures outside "market norms", provided companies can articulate how the changes reflect the business strategy and how they will benefit shareholders.

As a result, key issues which shareholders may raise in the current AGM seasons are:

- Performance and reward alignment
    - Factors the board considered in determining remuneration increases.
    - Perceived difficulty of incentive plan targets.
    - To the extent that targets are lower than the prior year, rationale will need to be provided. Proxy advisors may also expect to see a lower level of vesting opportunity corresponding to a lower target.
    - Payments which are not reflective of company performance (including sign-on payments, retention awards or termination payments).
- Link to remuneration strategy
    - Alignment of incentive plan measures and targets with the business strategy.
    - Alignment of incentive performance periods to the company's business strategy timeline and to performance periods in similar companies.

      For example, longer performance periods are often used by resources and large industrial companies due to the long-term investment focus, whereas retail companies may have shorter performance periods.

Understanding how these issues play out in your company's disclosures is just one element of preparing for a successful AGM.

Sound preparation for the AGM will allow companies to understand interest areas and provide relevant information to shareholders, as well as ensuring that companies can react nimbly to issues as they arise — before, during and after the AGM.

Planning for the AGM

Sound AGM planning should allow companies the opportunity to address any specific concerns in advance of the AGM.

We suggest you consider the following key steps:

Pre-AGM

1. Assign responsibility for developing and managing the AGM strategy.
2. Review shareholder feedback from the prior year. Has the feedback been considered? If not, can the board explain the rationale for not addressing those concerns?
3. Consider whether the remuneration report and Notice of AGM explain clearly the link between the business strategy, remuneration approach and payment outcomes. Elaborate on company performance and significant events during the financial year and following year end.

   The tone of all market communications around performance (i.e., market guidance, financial statements, the remuneration report, the Notice of AGM and Chairman's address) should communicate a clear and consistent message to shareholders.
4. Develop a plan to engage with key shareholders and proxy advisors, taking into account:
   - Who are the key shareholders and how do they make decisions? Are they reliant on proxy advisors? Note that different parties (e.g., fund managers and proxy advisors) may have different views on remuneration issues.
   - Are they local or international? If international, do they have different views on remuneration than Australian norms?
   - Who will be responsible for the discussions? Proxy advisors typically prefer to meet with the chairman or remuneration committee chair.
   - When is the appropriate time to engage? Some proxy advisors will not engage with companies after the release of the remuneration report, and some have blackout periods.
   - Are there any potentially contentious issues in the remuneration approach or outcomes that need to be specifically considered? If so, prepare rationale for any discussions to address any concerns prior to the AGM.
5. Track and review proxy recommendations and votes received prior to the meeting to understand likely outcomes. Consider the issues that may be impacting the votes and whether / how these issues should be addressed.
6. To the extent that there was a "no vote" against the remuneration report in the prior year, ensure the relevant resolutions are prepared in the instance of a second strike. Consider the logistics for a spill vote, should it be required.

At the AGM

1. Determine whether remuneration needs to be specifically discussed.
2. If so, determine who should deliver the remuneration information at the AGM and prepare talking points and Q&As.

Post the AGM

1. Clarify any concerns raised and follow up any questions.
2. To the extent that shareholders' and proxy advisors' concerns are significant, determine how these will be dealt with prior to next year's AGM. For example, determine whether a detailed or high-level review of the current remuneration approach is required.
3. Otherwise, enhancements to disclosures in the following year's remuneration report and shareholder communication strategy may sufficiently address concerns.

Two-strikes rule

The two-strikes rule has resulted in enhanced communication between companies, shareholders and proxy advisors. Companies are now routinely testing potential changes to their remuneration strategy with major shareholders and proxy advisors.

We have also seen enhanced remuneration report disclosures, especially around the link between performance and payment outcomes.

In 2014, 17 ASX300 companies received a first strike against the remuneration report. A small number of companies received a second strike. None experienced a board spill.

The most common reasons for strikes were:

- Perceived excessive executive remuneration
- Lack of transparency around incentive plan performance measures
- Perceived misalignment between executive remuneration and company performance
- General shareholder dissatisfaction due to a fall in share price or poor company performance

Shareholder protest votes

Since the inception of the two-strikes rule we have observed a minority of "strikes" which appear to be driven either by general or majority shareholder dissatisfaction with issues unrelated to remuneration (for example, dissatisfaction with company performance / decisions or a decline in share price).

The use of the strike on the remuneration report in protest against non-remuneration related issues raises questions around what companies can do to protect themselves from a protest vote, especially if facing a second strike.

A well planned strategy around the AGM should allow the board the flexibility to prepare and act should they become aware of a likely protest vote.

Companies should determine the issue that indicates a high no vote may be likely; is it related to remuneration or another issue?

Companies should engage with shareholders early to determine the specifics of the issue and what needs to be addressed to alleviate concerns.

Voting approach concerns

Proxy advisors have raised concerns around the use of the "show of hands" voting approach. They claim some companies have used a show of hands to pass remuneration report votes which may have exceeded 25% (based on proxies cast prior to the meeting). Proxy advisors are calling for polls to be required for all AGM resolutions.

However, ASIC has indicated it has investigated a few isolated reports of alleged misconduct this year. Further, ASIC has noted they will only raise the issue of changing the laws around voting to the government to the extent that systemic problems become evident.

Companies that prepare for their AGM by understanding key focus areas for shareholders and how these apply to their remuneration arrangements and plan an approach which provides the company with information in relation to likely voting outcomes on a timely basis should ensure a successful AGM.

The importance of nonfinancial information to investor decision making

A fundamental shift has occurred in the past year with investors more focussed than ever on non-financial information. They are becoming increasingly engaged in understanding how a company's environmental, social and governance performance will positively or negatively impact their capacity for future returns to shareholders. Organisations should continually assess their nonfinancial performance throughout the year, not just in the lead-up to the AGM.

Stakeholders of all kinds are providing momentum for a global movement towards sustainability disclosures, as they demand more than just financial information in gaining a broader understanding of a company's performance. Chief among these stakeholders are investors, who are increasing their integration of companies' environmental, social and governance (ESG) performance and other non-financial performance and strategies into their investment decision making. They are considering more information, from more sources, in more structured ways, with a focus on disclosures that shed information on expected business performance into the future.

Principle 7.4 of the ASX Governance Principles will likely also fuel additional disclosures this year as companies seek to discuss environmental, social and economic sustainability risks.

What do investors care about?

According to EY's second study on institutional investor's views '*Tomorrow's Investment Rules 2.0*', due for release in September 2015, investors are progressively incorporating ESG analysis, along with other non-financial elements, as evidenced in the responses shown on page 11.

This is amid concerns of ever emerging risks such as stranded assets and the impact of accelerating environmental and social changes on commercial enterprises.

As a result, investors are progressively bringing a more integrated and structured analysis to the non-financial factors affecting companies, across all industries and sectors.

However, this more structured approach may fall short of what investors need to forecast the impact of nonfinancial factors on investments. According to the survey, investors are facing a deficit of the quality and type of nonfinancial information that they want, with nearly two-thirds of respondents saying companies do not adequately disclose ESG risks. Specifically, investors are repeatedly saying that they do not receive enough accurate, standardised nonfinancial information relevant to companies' risk and performance assessment.

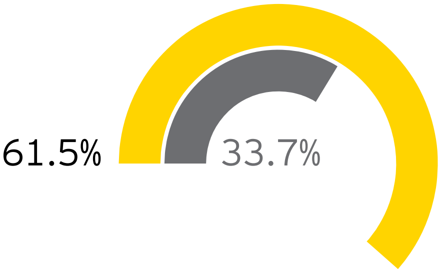
There are many reasons for the poor and uneven reporting of ESG and other nonfinancial risks by companies — for example, size of company (i.e., smaller companies not having the resources available in preparing nonfinancial information) and emerging state of non-financial reporting (i.e., lack of standards that offer company-to-company comparability in non-financial information).

This should not be looked upon as a setback but rather an opportunity. Companies that excel at getting non-financial data to the market have a first-mover advantage, rather than reacting to the reporting standards that investors seek.

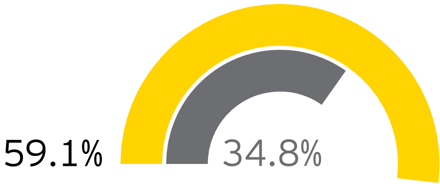
Percentage of respondents who...

2015 2014

Consider non-financial data relevant to all sectors

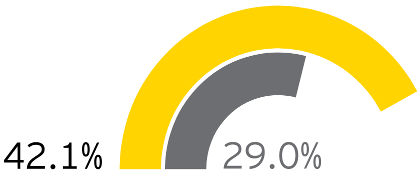


Consider ESG or sustainability reports essential or important when making investment decisions

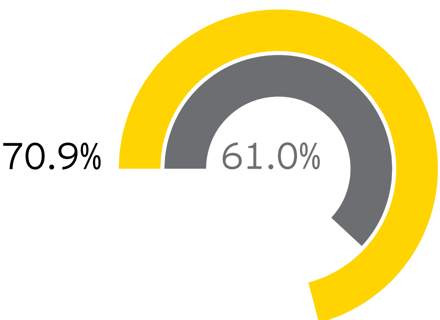


Use a structured, methodical evaluation of environmental and social impact information

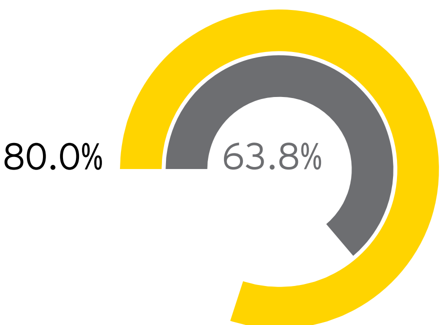
Believe companies are motivated to report non-financial information to demonstrate management of risk



Consider integrated reports essential or important when making investment decision



Consider mandatory board oversight of non-financial performance reporting essential or important



EY's *Tomorrow's Investment Rules 2.0* will be available October 2015. **For more information visit: http://www.ey.com/au/sustainability**

Key considerations for companies

Focus non-financial disclosures on information that is material to business performance: Investors are interested in companies' long-term value creation and therefore, in non-financial information that affects it.

Consider incorporating domestic and international best practices into ESG and other non-financial reporting: Companies that model their non-financial reporting after the best practices have a competitive reporting advantage in the eyes of investors, while those that ignore these best practices are progressively at risk.

Act now: Investors are seeking the right non-financial information now. If investors cannot find the non-financial information they want, they are progressively seeing it as a negative when making investment decisions.

Benefit from good governance: Governance procedures in place that give a company's board or audit committee accountability for its non-financial reporting, can be just as important as the environmental and social issues affecting it.

In light of these shifts, boards should make a concerted effort to regularly consider and challenge their organisation's ESG performance and reporting, not just when preparing for the AGM, but throughout the year.

Companies that are able to provide the type of nonfinancial information that investors seek will enjoy greater investor attention and ultimately attract and retain their capital.

Basic rules for AGM

When planning your AGM you should begin with a debrief on last year's meeting and then consider any major developments during the financial year that followed. Events that should be covered in presentations by the chair or CEO include a major acquisition, divestment or restructure, legal or media issues, significant changes to product or services and impacts from the industry or competitive environment. To avoid embarrassing, yet avoidable pitfalls, it is important that boards and company secretaries get the basics right.

Ensure you are not left short by:

- A shortage of seats for all of the board to sit comfortably at the top table, or having name cards in the wrong positions.
- Being unable to deal with difficult questions or complex points of law due to a lack of available advice.
- Allowing the meeting to be derailed by an unexpected issue raised by key interest groups.
- A technology failure (audio or visual) for explanatory presentations, or not making adequate provisions for the recording of procedures.
- Not having a microphone ready and available near those not on the top table who can reasonably be expected to speak, for example CFO where he/she is not a director.

Strategic preparation for the AGM

- It is recommended that the board is involved in planning for the AGM especially if the meeting is expected to be controversial in any way. A board that has met before the AGM to discuss issues and plan its strategy will be far better positioned to deal with surprises at the AGM.
- Conversations should include a debrief on the prior year's AGM, the experiences of peer group companies and procedural matters including whether to have the chair announce the results of proxy votes before a show of hands on the floor.
- Decide the nature of questions to be directed to specific directors.
- Ensure each director knows how fellow directors will answer questions.

  For example, it may be inappropriate for the CEO to answer compensation related questions, especially if he / she is the highest paid Board member. The Chair of the Remuneration Committee or Chair of the Board might be a wiser choice.
- Meet with shareholder groups, proxy advisors and corporate governance monitor groups in advance.

This is good preparation but remember that only publicly available information should be given at such briefings.

- Contact Institutional investors prior to the AGM.
- Gauge support for your proposed resolutions from institutional investors prior to the AGM. A lack of support in particular areas allows the Board to consider if and how it will proceed and how it may amend resolutions.
- Motions defeated at an AGM send a message of a lack of confidence in the Board. Advisor groups you may wish to contact include
- Corporate Governance International (www.cgi.au.com), Regnan (www.regnan.com.au), the Australian Council of Super Investors (www.acsi.org.au) and the Australian Shareholders' Association (www.asa.asn.au).
- Meet with your auditor to confirm the lead audit partner's attendance at the AGM.
- The auditor's attendance at the AGM has been compulsory for some years now. Auditors may be queried on the conduct of the audit, the content of the audit report, the company's accounting policies, and the auditor's independence in relation to the audit. The directors and the auditor should discuss the process for determining who will field which questions in advance.
- Update the shareholder register.
- If a shareholder vote becomes necessary on AGM day, having an updated register will smooth the process. Consider requesting your auditors perform a review of the proxy position prior to the AGM date, particularly if any of the motions are controversial or require a poll, or set percentage of votes, to pass.
- Have key service advisors and senior management on hand. Attendance by the company secretary, senior managers as well as legal and other advisors can support directors' responses.
- Know what is in your corporate governance statement disclosures.
- As well as the content of these disclosures, it is also worth ensuring that you know what has been disclosed where noting the flexibility now afforded by the ASX for such matters to be disclosed on your website, in addition to or instead of your annual report.
- You should consider preparing specific answers to questions which may arise on what shareholders would see as boilerplate or generic explanations to non-compliance.

Contacts

Author
Ken Weldin
Tel: +61 3 9288 8038
ken.weldin@au.ey.com

Sydney
Michael Wright
Oceania Assurance Managing Partner
Tel: +61 2 8295 6450
michael.wright@au.ey.com

John Robinson
Tel: +61 2 8295 6536
john.robinson@au.ey.com

Adelaide
Mark Phelps
Tel:+61 8 8417 1660
mark.phelps@au.ey.com

Brisbane
Alison de Groot
Tel: +61 7 3011 3437
alison.de.groot@au.ey.com

Canberra
Ben Tansley
Tel: +61 2 6267 3933
ben.tansley@au.ey.com

Melbourne
Glenn Carmody
Tel: +61 3 9288 8467
glenn.carmody@au.ey.com

Rodney Piltz
Tel: +61 3 9288 8618
rodney.piltz@au.ey.com

Perth
Darren Lewsen
Tel: +61 8 9217 1218
darren. lewsen@au.ey.com

EY | Assurance | Tax | Transactions | Advisory

About EY
EY is a global leader in assurance, tax, transaction and advisory services. The insights and quality services we deliver help build trust and confidence in the capital markets and in economies the world over. We develop outstanding leaders who team to deliver on our promises to all of our stakeholders. In so doing, we play a critical role in building a better working world for our people, for our clients and for our communities.

EY refers to the global organisation, and may refer to one or more, of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. For more information about our organisation, please visit ey.com.

APAC No. AUNZ00000561
S1528269
ED None

ey.com