

M O R R O W
S O D A L I

DECEMBER 2017

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ESG Shareholder Activism

CASE STUDY: ORIGIN ENERGY 2017 AGM

ORIGIN ENERGY 2017 AGM

Background to the Meeting

Origin announced in August 2017 that 129 shareholders representing approximately 0.0169% of issued shares had put forward four shareholder requisitioned resolutions, three of which were non-binding in nature. The resolutions were promoted by activist shareholder group Market Forces and broadly sought increased disclosure around climate-related issues and targets. The adoption of the three non-binding proposals was conditional upon shareholder approval for an amendment to the Company constitution contained in the first resolution.

The first resolution proposed would add a new clause to the Company's constitution that:

“The company in general meeting may by ordinary resolution express an opinion or request information about the way in which a power of the company partially or exclusively vested in the directors has been or should be exercised. However, such a resolution must relate to a material risk as identified by the company and cannot either advocate action which would violate any law or relate to any personal claim or grievance. Such a resolution is advisory only and does not bind the directors or the company.”

If passed, this amendment would allow shareholders (who meet the requirements under the Corporations Act) to file non-binding resolutions for other shareholders to consider. In a statement, the requisitioning shareholders argued that *“passage of this resolution ... will simply put Origin Energy in similar position in regard to shareholder resolutions as any listed company in the UK, US, Canada or New Zealand.”*

The Company did not support the aforementioned resolution, stating that *“shareholders already have the right under the Corporations Act to put effective resolutions to general meetings.”* It was also pointed out that the Company has an investor relations program to facilitate effective two-way communication with shareholders and that Origin regularly engages with its shareholders and other stakeholder groups to understand how its operations and activities impact them.

The second resolution that was put forward requested that the Company disclose its climate change-related risks in accordance with the Task-Force on Climate-Related Financial Disclosures (TCFD) recommendations.

In June 2017, the TCFD published a set of voluntary recommendations to help investors understand material climate-related risks and opportunities and their financial impacts. To date, 103 investors, stock exchanges and companies have committed to supporting the voluntary recommendations of the TCFD, including ANZ Banking Group, BHP Billiton and Cbus Super.

Origin has said it supports the TCFD recommendations in principle and is reviewing them in detail. However, it argued that its existing disclosures address many of the themes identified by the TCFD recommendations, particularly given that the Company includes ESG-related information in its Annual Report and also publishes a comprehensive stand-alone Sustainability Report on an annual basis. The Company also highlighted its support of the Paris Climate Accord *“and other measures to reduce carbon emissions,”* and further stating that it has advocated for clear government policies to meet Australia's 2030 emissions reduction target and net zero emissions in the electricity sector by 2050 or earlier. Origin also made a commitment to publish by December 2017 an analysis of the potential impact of a number of global carbon reduction scenarios (including a 2-degree scenario) on the wholesale electricity and generation portfolio. This has since been published. Origin also committed to publishing a science based

emissions reduction target that will be consistent with the International Energy Agency's (IEA) 2-degree scenario by the end of 2017.

The third resolution requested information on how *“the company plans to transition to low-carbon technologies in order to manage the material risks from fossil fuel dependency.”* According to Market Forces, the purpose of the resolution was to increase Origin's resilience to regulatory and market changes resulting from actions to limit global warming in accordance with the Paris Agreement.

The Company responded by referencing the details it had disclosed regarding its approach to the progressive decarbonisation of energy markets in Australia in its 2017 Sustainability Report. Origin communicated in its 2017 Notice of Meeting that *“the resolution would require duplicate and potentially confusing additional disclosure and incur unnecessary additional costs.”*

The fourth resolution requested information on Origin's strategy to *“accurately and comprehensively measure and reduce 'short-lived climate pollutants'.”*

Origin emphasised that it discloses a significant amount of available information relating to Short-Lived Climate Pollutants (SLCPs) in its Sustainability Report, including details of its proactive approach to landscape emissions and is supporting third parties (including CSIRO) to better understand this issue. The resolution *“would require unnecessary additional disclosure and incur unnecessary additional costs.”* The resolutions also seemed to *“lack sufficient clarity to enable practical application.”*

The Company's Approach to Engagement

Market Forces initially contacted Origin in July 2017. Upon receiving the initial contact, Origin responded in writing and subsequently met with representatives of Market Forces in an effort to address their concerns and to communicate its initiatives that are currently underway in regards to climate change risks and reporting.

Following Market Forces' shareholder requisitions, Origin again engaged multiple times with the activist group in an effort to demonstrate its performance and commitment to a sustainable business plan. The Company also explained its reasons for not supporting the resolutions, which were communicated in the AGM Notice of Meeting distributed to shareholders. In doing so, Origin has also committed to continuous improvement in its sustainability reporting disclosures.

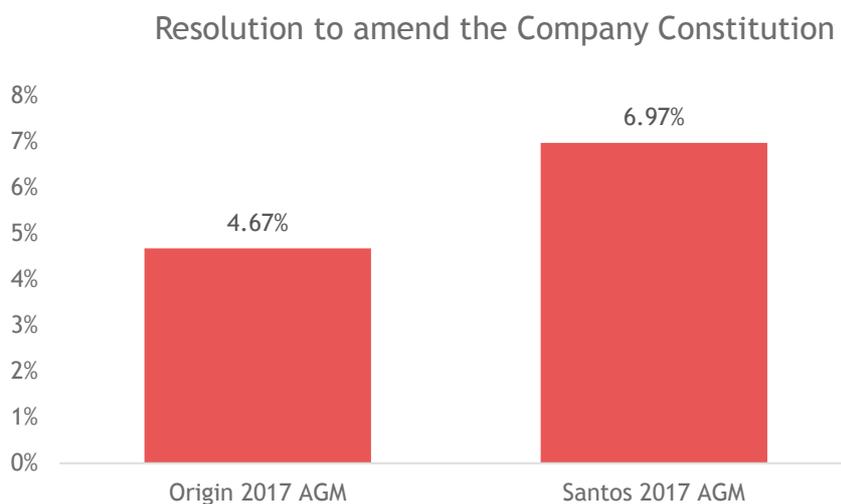
It is important to highlight that the release of Origin's emission reduction targets (part of its “We Mean Business” (WMB) Commitments) were initially targeted for disclosure by December 2016 - an issue that was raised during its discussions with Market Forces. However, Origin communicated that as a part of the WMB Commitment, the target must be formally reviewed and approved by the Science Based Targets Initiative (SBTI), who are yet to develop an appropriate benchmark for the Upstream Oil and Gas sector. Origin has had to work with the SBTI to develop an acceptable methodology for its Integrated Gas business. Origin expects to announce a company-wide target by the end of 2017.

The requisitioned resolutions by Market Forces were filed after the deadline had passed for shareholders to submit their proposals for the 2017 AGM. Irrespective of this and in the interest of open engagement, Origin decided to voluntarily put forward the requisitioned resolutions for shareholder consideration.

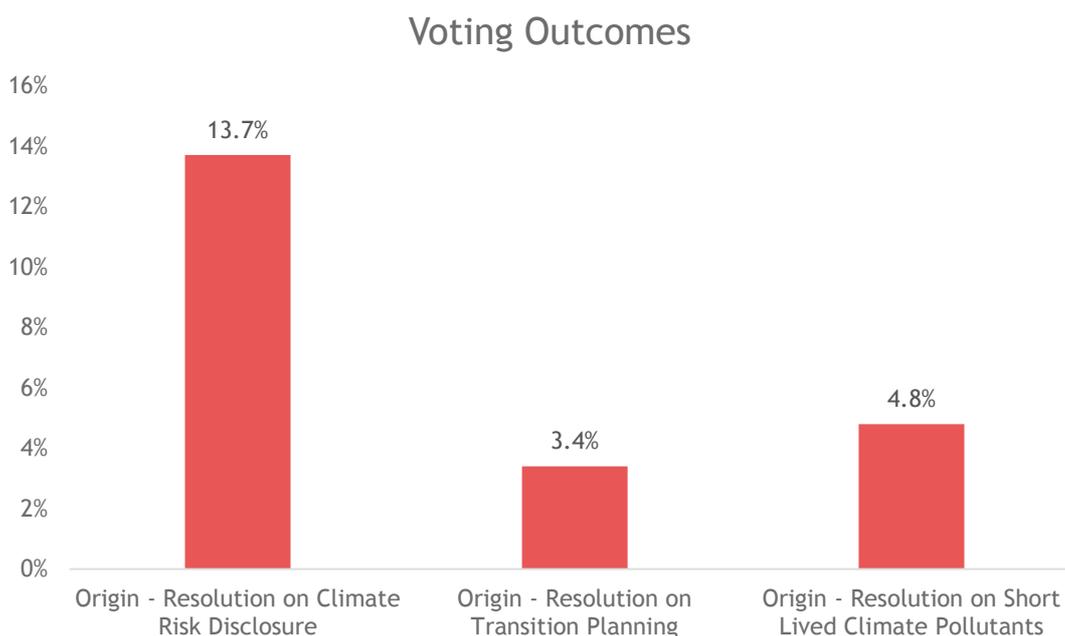
It is also worth noting that Origin allowed discussion of the subject matter of the non-binding resolutions at the AGM even though the constitutional amendment was not passed, as well as disclosing proxies received on all four resolutions at proxy close.

Outcomes

The resolution requesting the change in the Company’s constitution received only 4.67% of votes cast in favour. This is somewhat lower than the vote results for a similar resolution that was put forward by Market Forces at Santos' (ASX: STO) 2017 AGM earlier in the year, and which was similarly not supported by the Board.



The other three shareholder resolutions also failed to gain significant support:



It is worth noting that all major proxy advisors covering this meeting supported the Board in recommending that shareholders vote against all four shareholder proposals.

Furthermore, the Australian Council of Superannuation Investors stated that, *“the correct approach to empowering shareholders to file advisory resolutions is in ACSI’s judgement to seek to amend the Corporations Act accordingly. ACSI is now advocating for the Act to be amended.”*

Regarding the adoption of the TCFD recommendations, the clear majority of shareholders determined this to be a premature step given that the recommendations were only published in June 2017 and therefore voted accordingly. It was generally determined to be a somewhat excessive demand to expect companies to immediately commit to this framework, particularly when a company is already providing extensive ESG-related information to shareholders.

Concluding Remarks

Origin is one of several companies to receive ESG-related shareholder resolutions in 2017. The Company chose not to support the resolutions as it determined that they were either unnecessary or did not act in the best interests of all shareholders, however it did engage directly with the activists on multiple occasions and within a limited timeframe to understand their concerns and appropriately address them. As indicated by the AGM vote results and reinforced by the recommendations of governance advisors, there was limited support for the resolutions tabled by Market Forces.

CONTACTS

MICHAEL CHANDLER

Governance Director

m.chandler@morrowsodali.com

P. +61 2 8022 7946

M. +61 4 0175 4338

FRIDA PANAYI

Governance Associate

f.panayi@morrowsodali.com

P. +61 2 8022 7911

M. +61 4 1388 8242

PRATIKSHA HEBBANDI

Governance Analyst

p.hebbandi@morrowsodali.com

P. +61 2 8022 7911

M. +61 4 1250 5964

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Offices

NEW YORK

509 Madison Avenue
Suite 1206
New York, NY 10022

LONDON

103 Wigmore St
Marylebone, W1U 1QS
London, United Kingdom

SYDNEY

135 King Street
Suite 25.02, Level 25
Sydney NSW 2000

STAMFORD

470 West Avenue
Stamford, CT 06902

MADRID

Calle del Gral. Pardiñas, 15
Planta 1 - 28001
Madrid, Spain

PARIS

20 Rue Quentin-Bauchart
75008
Paris, France

ROME

Via XXIV Maggio, 43
00184
Rome, Italy

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