

Pre-Emption Group finds increased take-up of enhanced capital raising flexibility

28 November 2024 [Wilma Rix](#) Capital Markets - Equity - Corporate Governance

The Pre-Emption Group (PEG) has published its second monitoring report on how UK-listed companies have used its guidance on disapplying pre-emption rights in 2023-24. The PEG Statement of Principles was updated in 2022 with the aim of providing a balance between the protection of shareholder rights and the promotion of efficient capital raising and growth in UK markets. According to the latest monitoring report, companies and investors are increasingly embracing the higher levels of flexibility for non pre-emptive issues permitted by the 2022 Principles.

Background

Nearly all UK-listed companies (over 96% in 2023-24) seek authority every year to disapply the statutory pre-emption rights which give existing shareholders priority in participating in future share issues for cash, and thus protect them against dilution. Most companies propose two resolutions at their AGMs, in line with the PEG guidance, with the first seeking authority to issue shares non pre-emptively for general corporate purposes, and the second for specified capital investments.

The updated PEG Statement of Principles, and accompanying Template Resolutions, were published in November 2022 (see [here](#)), with a first PEG monitoring report on the 2022-23 period published in March 2024 (see [here](#)).

Key findings

Key findings from the report covering AGMs from 1 August 2023 to 31 July 2024 are as follows.

- A significantly higher number of companies (67.1% of the FTSE 350, compared to the previous year's 55.7%) sought disapplication authorities for amounts which exceeded the authority previously allowed under the 2015 Statement of Principles (referred to in the PEG report as "enhanced" authorities). This figure relates to both requests made for general corporate purposes, and for those relating to specified capital investments. It is worth noting that companies continue to seek authority for a variety of differently sized disapplication authorities, rather than just keeping to the older 5% limit for each resolution or new 10% limit (plus optional 2% follow on authority). In addition, a small number of resolutions which were put and passed sought a 20% authority for general corporate purposes, exceeding even the higher limit allowed since 2022. The PEG notes that these companies were mostly investment trusts where the market generally allows for more flexibility.

- 64.1% requested authority for a specified capital investment, in addition to general corporate purposes. This figure is similar to that in the preceding year.
- 99.4% of companies had all their disapplication resolutions passed, with an average of only 4.7% votes against. This figure shows a small improvement on the previous period (98%).
- The report notes that many companies used components of the PEG Template Resolutions, and explanatory notes, and that these disclosures, and proactive engagement with shareholders, represent better practice application of the Principles.
- This year, only a quarter of companies referred to the old six-month time limit in authorities relating to specified capital investments, rather than to the current 12-month period. The PEG is pleased to see the drop from the previous figure of 42.6%, having made it clear that best practice is to move away from the 2015 guidance.
- Likewise, the PEG notes with approval a significant fall in the number of companies referring to the old 7.5% limit on non pre-emptive issues in a rolling three-year period, on the basis that this is no longer best practice (only 13.2% of companies included this now redundant statement, compared to 25.3% in 2022-23).

Advice for issuers

As before, companies are advised that:

- It is important to maintain high standards of governance and transparency, as shareholders will carefully examine the company's governance when considering elevated disapplication authorities and apply a higher level of scrutiny than they may for other voting decisions.
- All companies should engage with their shareholders prior to their AGM, but this is especially important for companies putting forward resolutions which exceed the disapplication authority limits set by the Principles.
- Companies should submit a post-transaction report to the PEG following a capital raising in which they rely on a pre-emption disapplication authority. Part 2B of the Statement of Principles provides a template of the information which must be disclosed. Submissions will be added to the database of post-transaction reporting on the PEG website (and this resource can also be useful for establishing information about market practice).
- If investors become aware of companies misusing disapplication authorities, for example by using cash box structures to raise further funds non pre-emptively, they are requested to notify the PEG.

More information

See the PEG [Annual Monitoring Report 2023-24](#) and [press release](#). The PEG's Post-transaction Reports Database, covering 2022-2024, is also available [here](#).