

**Krishnan, Sudesh**

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**From:** Asher, Anthony [Anthony.Asher@apra.gov.au]  
**Sent:** 14 September 2004 05:06  
**To:** Myners, Review  
**Subject:** Personal submission

Dear Mr Myners,

I would like to make a few short responses to your some of your questions.

**Q7. What role should policyholders play in the running of mutual life companies? Are there practical barriers to policyholder participation in UK life mutuals? What action would be needed to allow more effective engagement?**

The dispersion of voting power is an obvious obstacle to policyholder participation. One idea that deserves consideration is to require some type of proportional representation on boards of directors. This would greatly increase the chances of smaller groups of policyholders electing a member of the board of directors. Independent directors will be more powerful if they have not been chosen by the CEO, and have an independent powerbase. This, I understand, underlies the Canadian rule on proportional voting that enables minority shareholders to appoint directors. Branson, D. M. (1993) (*Corporate*

*Governance* Michie, Charlottesville ) says that some dozen American states allow for minority representation in the form of a cumulative voting system. He refers to evidence that share prices are negatively affected by the removal of such minority representation.

**Q12. Do specific barriers exist to the success of mutual businesses in the UK? If so, how might they be addressed?**

And

**Q13. What are the forces that drive de-mutualisation? What are the implications of de-mutualisation for members and customers?**

I think that perhaps the greatest tragedy of the Equitable debacle is that it has discredited the philosophy of not holding a separate estate, but distributing it all to policyholders. I believe that this is genuinely equitable, and can be prudent - if policyholders are properly informed of the risks involved. The risks need to be no greater than the policyholders' other investments in shares.

Mutuals that insist on withholding profits from current generations of policyholders will find it much more difficult to be competitive. It seems from this distance, that there is a significant risk that your regulators will fail to understand this - and require a narrow and unreasonable view of policyholders' reasonable expectations.

On the forces that drive demutualization, most obvious is the considerably higher remuneration of the executive and board after demutualization. I refer you, for instance, to Shiwakoti, R.K. Ashton, J.K. and Keasy, K. (2004) Conversion, Performance and Executive Compensation in UK Building Societies *Corporate Governance: An International Review* 12.3 361-370.

The two issues are connected. If the philosophy of distributing the estate (memorably characterised by Frank Redington in 1981 as looking after the sheep as well as the flock) is followed, there is no advantage to policyholders in demutualization. If on the other hand, an estate is built up, there are clear advantages to the policyholders in being given "free" shares. Whether cynically or not, it seems to me that the management of a number of mutuals built up significant reserves that eventually required demutualization - with consequent benefits to themselves.

I do think this is a pity because of the diversity that the mutual form brings to the marketplace, and the platform it offers for a worldview less enthralled by the profit motive.

Yours sincerely,

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