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Myners review
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MYNERS REVIEW OF MUTUALS

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Having been deeply involved in the Equitable fiasco since 2000 when Equitable closed its doors to new policyholders, the main impression that I have about the Society is one of overwhelming arrogance. In reading comments by Standard Life directors more recently, it was rather like *déjà vu* in that the same level of arrogance seemed to be permeating Standard Life and one felt that, like Equitable, there but for the grace of God would go Standard Life.

Arrogance and a Law unto Themselves

It also seems that both mutuals outwardly give the impression of benign institutions and that the well being and welfare of their members is paramount, this is not how they appear to operate behind the scenes. Mutuality appears to have become an excuse for a lack of transparency and complacency of the directors, forgetting who actually owns them. For example Standard Life seemed to play dirty when demutualisation was suggested and it was only when the FSA stepped in that things changed:

- Those putting forward the idea of demutualisation were portrayed as greedy and raiders. Standard Life in fact spent many millions of pounds of members' money to remain mutual in 2000.
- Standard Life played every trick in the book to get members to vote Yes to their way of thinking, even being criticised by the Plain English Campaign. Nationwide also has used this technique in ballot papers in the past and came in for heavy criticism.
- Fred Woollard who polled 46% of the votes (although not enough), must have put forward a message to the board which was ignored. His actions were met with veiled threats.
- Standard Life threatened to withdraw advertising from the Barclay family newspapers unless Andrew Neil was sacked after criticisms in their papers.

Equitable Life seems to have taken a similarly arrogant position:

- The 1 February 2000 letter written to policyholders by the then Chief Executive Alan Nash stating “Contrary to many of the reports which have appeared in the press, there would be no significant costs imposed on the Society if the Court of Appeal’s decision were upheld in the House of Lords. The speculation regarding financial difficulties and costs to be born by with-profits policyholders is therefore unfounded. Your Society remains, and will continue to remain, financially secure”.
- At the Equitable AGM in 2004, Equitable acted in my opinion in a very below the belt way, by displaying as part of a presentation by the Chairman, comments made the Chairman of EMAG, one of the Equitable action groups. Although some of these comments may not have been reasonable, it struck me as extremely unprofessional to act. It also appears that the press were actually alerted to this beforehand by being told ‘this is a good bit, you’ll like this’. The member in question may in the opinion of the directors have been out of order, but he was a member and felt that he was acting in the interest of the members yet was not given an equal platform to put forward his views.
- The Board of Equitable threatened to charge EMAG £50,000 for lawyers fees to look at EMAG’s suggestion that they should be given a million pounds in which to pursue the government for compensation which had been put forward to the members as a resolution. EMAG had no say in these costs, which to me appears to be have been over inflated, whether by the lawyers or Equitable. Although the amount was eventually dropped, I felt the whole episode did give the impression of bully boy tactics.
- Bully boy tactics also appear to have been used by the previous board in the case of the Government Actuaries’ Department (GAD), who were slated for allowing this to happen, by Lord Penrose in his report.

The above points give examples of how mutuals are able to be a law unto themselves with total lack of accountability for their actions, in spite of the fact that they should be acting for their members and not against them.

EGMs

In the case of Equitable when members wished to hold an EGM in 2001 they were required to have 10% of the members to call it. This amounted to over 40,000 people. Although the membership list could be purchased from Equitable this sort of mailing could not even have been contemplated by individual members and was totally unreasonable. Equitable has since changed this requirement to 1,000 members. However I feel that the 10% for mutuals should be reduced to a more reasonable figure.

Directors

In the case of members wishing to stand for the Board again they are met with an impossible task, if they are not backed by the Board. In the case of Equitable the vote is only for or against with no possibility of a ‘non vote’. As the Chairman has the proxy votes it means that although an individual could actually poll a good showing of votes, with the Chairman’s votes this can make their showing negative. This allows for complacency on the Board as it means that they can dictate whom they would like to see joining them. It also means that

there can be a very cosy relationship, where no one rocks the boat, which appears to have happened over the 1990s in Equitable's case.

Understanding of the Industry

Although it is important that in general directors have a good overall understanding of the way the mutual in question works, I feel that although members may not have the knowledge of the insurance industry it is important that they do have someone who will ask questions, doesn't matter how stupid, because they do not understand what is being said. I think that the possibility of a Board having two 'member' directors who stand separately from the main Board could be an idea. They may not fully understand the insurance industry, but they do understand the problems of the membership, which will give a different perspective and perhaps ensure that the 'old boys network' is broken up. It is vitally important that there are members of the board that will question and who can go outside for answers if not satisfied with the replies given internally.

Understanding of the Mutual

It does appear that some of the directors of Equitable in the 1990s were totally unaware of the GAR and the final bonus decision although one assumes they did when the Society went to court. However Lord Hoffman one of the Law Lords who himself had an Equitable policy with a GAR clause was not aware, on his own admittance, of the GAR either. I have been spending from four to fourteen hours a day on Equitable since December 2000, seven days a week. In that time I have had an enormous amount of people contacting me and asking about their policies. Just when I think I understand all the policies available another one pops up. I almost get the impression that every policy written by Equitable varied in some way or another, although this may be an exaggeration it makes it exceedingly difficult for any non executive director to fully understand what is going on, particularly if an executive managing director did not want this to happen.

Constitutions

Each mutual has its own constitution, in several cases these go back to an era when things were very different. This can cause anomalies. The ground rules for the constitution of mutuals needs to be reviewed.

Auditors

Although this problem also happens in public companies, I feel that allowing auditors to also be consultants for the mutual is not good for policyholders. The case of Equitable appears to show that the auditors had become complicit with the Board and were not doing the true job of auditors. More evidence of this should come out with the review of the Joint Disciplinary Committee on Ernst & Young and also the case against Ernst & Young by Equitable itself.

Summary

In summary, it seems important that there is some reign on the current arrogance and complacency encountered and mutuals should be made more accountable. In my personal opinion I do not feel that mutuals should be allowed to act as 'big business' and there should be a limit on their size. Mutuals such as Standard Life and Equitable compete with large companies, while their ideals should be different. This causes a clash of objectives. Mutuals such as Royal London raided its reserves to purchase Scottish Life and United Assurance. The Mutual was never intended to be such an animal. In the defence of mutuals perhaps they are not the only ones at fault, when we see such cases as Enron, Worldcom and more recently Shell. Also the appalling cases of mis-selling across the financial services industry.

Perhaps just looking at the way Mutuals operate is much too small a remit. What should be looked at is the fact that our financial services industry is still giving all the appearance of rotting from within.

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