



McInroy & Wood

PERSONAL INVESTMENT MANAGERS

*“We must not make a scarecrow of the law,
Setting it up to fear the birds of prey,
And let it keep one shape till custom make it
Their perch, and not their terror.”*

Measure For Measure.

Tony Blair didn't play in the XV at Fettes College, but he would have known Bigside, the school rugby pitch. Its north-east corner sloped down into a muddy bowl where canny kicking tactics could pin back an opposition close to its goal line at the bottom of the slope. Everyone knew the slope and it was accepted as a fact of schoolboy rugby life in Scotland. If someone thought to level it up, they have never done so.

Schoolboy rugby players seem to be the only people left who put up with an uneven playing field. For most of us, when the going gets bumpy, the first instinct is to appeal to the referee – usually the government. Exporters complain about the high value of the pound, hauliers complain about lax European regulation, clothing manufacturers about cheap imports, motorists about oil company rip-offs, suppliers about supermarket profits. If only the government would wheel in the cosmic JCB, all could be made nice and flat and fair again.

Statutory regulation is the only piece of flattening equipment at the government's disposal but it is clumsy and cannot run over economic road-blocks like the exchange rate or scores of other disagreeable but politically sensitive issues which lie outside the range of its scoop. Regulation has its limits.

Yet the rule book grows fatter by the day, for obvious reasons. Politicians for their part are in the business of snap responses, and every politically sensitive problem has an instant regulatory solution. Remoter ideals, like better education which achieve results only over decades, cut little ice in the polling booth. Businesses and big institutions, in turn, don't mind new regulations if, by complying with the letter, they are left free to roam, as the strongest predators, through the market jungle.

The savings and investment industry has not been short of politically sensitive issues and naturally the knuckle of the regulator is knocking increasingly urgently at its door.

Regulation here is nothing new. UK banks and insurance companies have long been required to meet stringent capital adequacy rules. The London Stock Exchange has always set listing requirements for quoted companies. This sort of regulation has a limited scope and applies in clearly defined circumstances. Compliance is capable of being enforced because it is determined by reference to specific objective criteria. Such regulation affords a degree of basic quality assurance and protection to all customers of the securities industry.

Sadly, but unsurprisingly, the extension of regulation in the financial world since the Financial Services Act of 1986 has not prevented some of the grossest abuses in UK financial history – pensions mis-selling by the biggest institutions in the country; endowment mortgage ramps; the Barings bust, and now the Equitable débâcle, to say nothing of the risks posed by a daily deluge of financial products, hyped up by selective advertising and thrust down millions of throats by commission-hungry salesmen.

Rules governing financial advertising and the 'suitability' of products for a customer's requirements were designed to prevent abuse, but they are virtually powerless to frustrate the creation of misleading impressions or to prevent commission-driven peddling and ill-advised commitments by credulous or lazy investors.

