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10 October 1984

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PRIME MINISTER

FINANCIAL SERVICES

Agne N Tebbitts
Proposals subject
to re-examination on the
five points David Willetts
has identified?

AT 10/10

Yes not

I am afraid Mr Tebbitt's minute of 9 October is not a very clear exposition of his investor protection proposals.

What Mr Tebbitt is proposing

Get rid of the Council for the Security Industries. Take the three competent Self-Regulatory Agencies (SRAs) we already have - the Stock Exchange, the National Association of Security Dealers and Investment Managers, and the nascent Association of Futures Brokers and Dealers. Give them the job of day-to-day regulation. Set up an Investments and Securities Authority (ISA) to check up on the regulators. Although a private body, it would have legal responsibilities for regulation delegated to it by the Secretary of State for Trade and Industry.

Do not go down the road of creating lots of new SRAs, as they might well prove feeble. So put the merchant banks, which currently have no regulatory agency of their own, directly under the ISA.

Apply a similar solution to the marketing of insurance and unit trusts. Again, there is an umbrella body - call this

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the Investments Marketing Authority (IMA) - which polices the sellers of life assurance and unit trusts. If good SRAs develop in this area, they will come under the IMA; and if not, individual operations will be supervised directly.

Comment

As you know, John Redwood and I advocated an approach to investor protection resting almost entirely on competition, disclosure, and strict policing. But in July it was agreed in principle to move to some sort of self-regulatory model. Mr Tebbit's particular solution is ingenious. It uses existing bodies such as the Stock Exchange, but avoids artificially creating lots of new, feeble SRAs - the risk in the Gower approach. And his supervisory bodies can check up on the performance of SRAs, whilst acting as a lightning conductor for City scandals so they are not blamed on the Government. But before you sign up on Mr Tebbit's proposal, he needs to reassure you on five important points.

First, the law. The best way of protecting the customer is to give him clear legal redress which he can take on his own account, without going to any fancy regulatory body. I understand that Mr Tebbit is considering tightening up the disclosure law covering prospectuses. If a customer is sold an investment on the basis of false or misleading information, the contract is void and he can sue the

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financial company direct. Mr Tebbit should give you an assurance that the law will be toughened up.

Secondly, one of our worries about SRAs was always that they would be become cosy cartels. The new boy with the good idea would be dismissed as the wide boy who wasn't a gentleman. Mr Tebbit is providing a clear right of appeal from the SRA to the supervisory body and, beyond that, to an independent tribunal. But in addition, the Office of Fair Trading should have an open remit to keep scrutinising all City self-regulation to ensure it is not anti-competitive.

Thirdly, we need to be much clearer about the relationship between Mr Tebbit and the main supervisory bodies. What sort of powers are going to be delegated from him to the supervisory bodies? Who is going to appoint them? Mr Tebbit needs to avoid being involved in day-to-day regulatory work, but at the same time have clear statutory powers to check that the umbrella body is not colluding in a cosy cartel.

Fourthly, the DTI currently supervises directly the marketing of insurance and unit trusts. Can this supervisory function be passed from the DTI to the Investments Marketing Authority? That would save some civil servants and avoid the DTI taking on a job which it probably isn't very good at.

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Finally, a major difficulty in successfully prosecuting fraud cases - eg Lloyds Underwriters - is that they go before juries who are often incapable of understanding the technical financial points which come up. So the guilty escape. Judge Roskill is conducting an Inquiry into this, and 30 September was the deadline for evidence. When will he be reporting?

I recommend that you sign up on Mr Tebbit's proposal provided he is able to offer assurances on these points.

David Willetts

DAVID WILLETTS

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