

MEMBERS' RESOLUTION

Over 1,000 members of the Equitable Life Assurance Society ('ELAS' or the Society) have supported the resolution tabled by Equitable Members' Action Group ('EMAG') for the AGM on 19th May. It calls for ELAS to contribute £2,000,000 to a trust established by EMAG to campaign for compensation for regulatory failure by the Government. Please consider this and join with those thousand policyholders in voting FOR this action.

EMAG is well established with a legally drafted constitution, an elected committee of past and present policyholders and membership by subscription. It has championed the cause of policyholders for over 3 years. For the past 2 years EMAG's central objective has been to pursue the Government for compensation for all policyholders. Without EMAG the door to the Parliamentary Ombudsman - which is the recommended route of Equitable's board - would now be very firmly shut.

EMAG is independent of any commercial organisation and under its constitution cannot support litigation against the Society. EMAG's committee give their services FREE, aided by the paid for work of our General Secretary. EMAG, on modest member subscriptions, has achieved much, for example:

- obtaining over 19,000 signatures in support of its successful campaign to modernise the Society's Articles,

- keeping the scandal in the public eye whilst Lord Penrose prepared his report,

- lobbying countless MPs and writing six times to ALL of them in the last year.

- Paul Braithwaite, our General Secretary has presented our case robustly in the media and to Parliament,

- maintained an informative, up-to-date and authoritative website at: "www.emag.org.uk"

- commissioned ground-breaking reports, for example, from Professor David Blake, which first used the term 'Ponzi' for the modus operandi of ELAS - a judgement, which Lord Penrose implicitly supports.

Then, a year ago, from Burgess Hodgson, Chartered Accountants, the report, which first disclosed that throughout the 1990s the old board repeatedly declared bonuses FAR in excess of assets. By forensic accounting they found a black hole of £1.3bn in 1990, a figure now confirmed by Lord Penrose. The cost of their report (£9,400) compared to Lord Penrose (£2,500,000) demonstrates EMAG's skill at maximising its cost effectiveness.

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Lord Penrose blames the downfall of ELAS on the old directors. However he also says that their practices could not have been sustained if there had been a proper regulatory regime in force. He repeatedly criticises all the regulators and finds that the Department of Trade & Industry was 'ill-equipped' and the Government Actuaries Department was 'complacent'. Now the Treasury denies us compensation on the grounds that the debacle was the fault of the previous Conservative Government. Incredibly, the Treasury's line is that policyholders should, effectively, sue themselves. This is clearly nonsense, but who is best placed to fight it?

On 21st January 2004, before the Penrose report came out, Charles Thomson ELAS Chief Executive told the media: 'the legal hurdles that the society would have to clear to go after the government were high'. We agree: one of the reasons for this is that ELAS (in the form of its past directors) was the wrongdoer, so it does not have "clean hands". From the same press conference, the Daily Telegraph reported Mr Thomson said:

'the hurdles for an individual or a group of Equitable's policyholders pursuing the Government "are less high" and would stand a greater chance of success'.

Again we agree. However, on being asked if ELAS would fund such a venture, Mr Thomson said: "it would be extremely hard to justify to existing policyholders". EMAG is the only credible focus for that huge task and we are offering, given your vote of support, to take up that baton.

EMAG would NOT favour suing the Government for 'misfeasance'. As ELAS's chairman Vanni Treves said in the Evening Standard on 22 March, 'the costs would be enormous and it would take years to come to trial'.

But there are other routes open to a determined, motivated and appropriately funded group of policyholders with "clean hands". In addition to the Parliamentary Ombudsman, who unlike Lord Penrose, does have power to recommend compensation [which happened over the Barlow Clowes affair], EMAG is considering legal avenues to the EU, with a Frankovich action and a petition to the European Commission. Both would be based upon the failure of the UK Government to implement the "Third Life / Non-Life" Directives of 1992 on insurance business supervision. Lord Penrose report and Ruth Kelly's speeches contain numerous indications of this failure.

The proposed £2m contribution from ELAS would be placed in a trust fund formed by EMAG for this purpose. This sizeable sum should be viewed in the context of the estimated £50m total legal fees over three years spent by ELAS in fighting policyholders' claims and reaching settlements with selected groups.

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Millions have been spent seeking £3.2bn from 15 former directors. Coincidentally, this is the sum that Burgess Hodgson estimated as the policyholders' loss attributable to regulatory failure. The difference is that the government DOES have the wherewithal to pay.

Even without costly misfeasance litigation, and with EMAG's proven cost effectiveness, campaigning is expensive. It costs more than £150,000 just to write to 450,000 ELAS policyholders. With the contribution envisaged, we will be able to hire top class professional political, legal, actuarial and financial advisers. EMAG's loyal supporters have borne the costs to date but would appreciate the Society's support to see it through.

On March 23rd (the time of writing) there are again press stories that Equitable's board does not think there are grounds to pursue Government compensation. Having studied Penrose's report, EMAG cannot agree. Only EMAG has demonstrated unequivocally a determination to hold the Government to account. We will do our very best to obtain redress for the £3.2billion lost by policyholders. We have the will and the "clean hands" to take this forward to the EU – with YOUR backing.

PLEASE EXERCISE YOUR RIGHT TO VOTE ON THIS IMPORTANT ISSUE