

## **THE COMPREHENSIVE CASE FOR PROVING REGULATORY FAILURE**

From 1994 to 2001 the Equitable was permitted by a succession of passive Treasury regulatory agencies to vote bonuses out of profits that had not been made and to expand the business at a dangerous rate. As a result, at the end of a 9 year long "bull" market when the Society closed to new business in 2000 and should have accumulated a "smoothing kitty", assets actually fell short of the sum due to policyholders by 10%, representing a **DEFICIENCY of £3 billion**.

From 1993 to 1999 the regulators knowingly endorses the Equitable's behaviour in making no provision for GARs.

Throughout the late nineties the Equitable was allowed to indulge in selling practices that have subsequently cost policyholders dear. ONLY the Treasury's agencies were in a position to know the true financial state of ELAS and yet consistently they did nothing but "continue to monitor the situation", and that has prevailed through to the present.

From January to December 2000 the Equitable was allowed to carry on selling new policies **after** it had lost its GAR case in the Court of Appeal. The regulator must have known the falsehood of the Directors' claim that even if the Society lost in the House of Lords the result would not significantly affects its finances.

The FSA took no action to require Equitable to admit and address the ongoing Guaranteed Interest Rate (GIR) problem, which has left the Society totally hidebound, even after policyholders did as encouraged by the board and the FSA and voted for the compromise.

The Chairman of the Equitable Life has communicated that the Board is unwilling to consider any claim against regulatory authorities until the Report on the Inquiry being undertaken by Lord Penrose is published. There is, however, no deadline on the Penrose Inquiry and it now seems unlikely that its Report will reach public domain in any form before 2004.

Furthermore, Lord Penrose is not charged either with allocating blame or addressing compensation. His remit is merely to describe the events leading up to August 31st 2001. His report is to the Treasury and it is the Chancellor's prerogative to decide whether, what and when to publish. Even if the Report is eventually published, it may not contain any material new evidence, because of sensitivity to issues and papers regarded as confidential. The Treasury has already denied MPs sight of their briefing papers and minutes from the most important months in 1998 when the Treasury itself was the regulator, invoking and hiding behind the shabby Osmotherley Rules.

EMAG and others suspect that the Treasury's intent was to kick the issue of regulatory failure "into the long grass". It appears as if the Board is acting

"hand-in-glove", seemingly to protect the Treasury. The delays are unacceptable and our Board would be negligent not to explore this biggest single possible source of compensation before it becomes "time-barred".

Policyholders are entitled to expect the Treasury to admit liability when its regulators comprehensively fail, as is the case with the Equitable Life.

For fuller details visit the website at: [www.emag.org.uk](http://www.emag.org.uk)