



Bedtime reading

We need to make regulatory demands on companies and directors less onerous if we are to attract the best leaders, says **Jon Moulton**

There is no doubt that the UK's capital markets are going backwards. Institutions have followed returns, moving out of UK equities and into other assets. The government has belatedly woken up to the issue and, with the Edinburgh Reforms, is proposing a range of measures to drive investment in UK equities, including forcing institutions to follow the government's aim. It is a slippery slope, potentially forcing pension funds to accept inferior returns.

I feel like a broken record – if returns are low in an asset class then prima facie putting more money into that class is a clear example of King Canute economics. It's not quantity of funding, but the quality of opportunities that is the issue. We will not regulate our way out of recession.

The UK Stock Exchange and AIM used to be world leaders; they no longer are. It may just be coincidence that ever-increasing regulation correlates nicely with the decline in the markets – but I do doubt it.

In 1968, a very well-drafted Takeover Code came out in 13 pages with an introduction, 10 principles and 35 rules. Last December, out came the latest version with more than 441 pages and endless rules. Things may have changed, but most of the changes would be caught by the original 13-page version, if the 55-year-old principles were intelligently applied. It takes quite a step to believe that we need 428 more pages.

Law becoming an ass

Lawyers are maybe the most blame-worthy group. Enormous legal fees and salaries plus increasing headcounts tell their own story. The law had a negligible role in certain proceedings back in 1968. Now we have the courts involved in judicial reviews, with all that those cost.

The Financial Reporting Council (FRC), which published the revised UK Corporate Governance Code in January, has its own interesting numbers. The FRC's advisory panel has a wide range of expertise, but it has 47 members.

But I digress. The Corporate Governance Code is at least shorter than the aforementioned Takeover

Code, at just 17 pages. That is, of course, before taking into account 82 pages of guidance notes; and 454 pages of Listing Rules; and 20 pages of 'comply or explain' guidance; and the brief 'board diversity and effectiveness' guidance. And there are 190 pages that make up the disclosure and transparency rules. There may be others I have not located.

The Corporate Governance Code makes for quite a lot of activity of totally unproven use as well as some onerous requirements.

Things such as having the remuneration committee reviewing workforce pay is one onerous requirement. Companies have to make unqualified statements that all diversity is good, with disregard for clear evidence. There is an other-worldliness visible in such edicts as getting the auditors to review the board's performance. There is a ridiculous over-reliance placed on the skills – with indifference to the costs – of such external board reviewers. And paying directors with share options is rendered very difficult. Shareholders should maybe decide how non-executive directors are paid.

No one should genuinely not be surprised that people think twice about becoming part of a public company. There can be little doubt that all this regulation reduces productivity and GDP. The FRC was definitely not set up to strangle the economy, which makes it all the more puzzling.

Very few people will have more than a passing knowledge of these reams and reams of rules and regulation, plus guidance and notes for those who just want to read more. If you could dump much of this madness, good people could be available for far more useful jobs.

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