

During the hearings, the committee members made a point of asking witnesses to give public policy reasons for the life and health insurance industry to have access to the Consolidated Revenue Fund. We understood why they would like to have access to the Consolidated Revenue Fund: There are 27 million Canadians who would like access to that fund. We understood the public policy reason for treating banks and trust companies differently; in other words, protection of the Canadian payment system. We wanted to know the public policy reason for treating this industry differently from any other industry in Canada. Not one single witness who came before the committee was able to address that question directly in any substantive way. They had only arm-waving answers. We, therefore, rejected their arguments.

The committee arrived at its conclusions with respect to the policyholder protection fund for these reasons: It gets around the conflict of interest situation which now exists with respect to CompCorp; it offers solid protection to Canadians who buy life and health insurance policies; it creates an institution through legislation; it creates an organization which will be able to assist considerably in achieving going-concern solutions for financially troubled companies before they actually go bankrupt.

The report explicitly recommends that legislation regarding the fund be introduced and passed in the first six months of next year. We have thus accepted a part of the industry's solution to its own problems, but specifically rejected all of their so-called equity issues.

The third area of the report upon which I want to comment concerns our proposals for significant additional powers for the Superintendent of Financial Institutions.

Currently, the superintendent only has two alternatives: essentially, an on/off switch. He can decide either to regulate, to jawbone, try to get people to make the changes he wants, or he can liquidate. Under current legislation, he cannot say to a troubled financial institution, "You must do this." He can say that he thinks they ought to do something or that he wishes they would do it. He can tell them that if they do not do something, dire things will happen. However, he has no range of powers other than non-intervention or liquidation.

Evidence before the committee showed that in several jurisdictions in the United States, there are statutes providing for rehabilitation. A rehabilitation scheme gives the regulator a series of steps, all the way from non-intervention to a second series of steps, all the way through to ultimately liquidating the company. The purpose of this series of steps is to allow the regulator to take action, frequently under the jurisdiction of a court, so that a company can be rehabilitated, resurrected, and then either placed under new management or sold to someone else. You frequently hear of this process under so-called Chapter 11 actions in the United States.

There is a process in Canada for companies which find themselves in similar trouble called the CCAA Act; however, it explicitly excludes financial institutions.

Clearly, the regulator needs a series of powers which will allow him to step in and facilitate an orderly transition of a

company without having to go to the extreme action of seizing the assets, and yet still keep seizure as a step of last resort. One hopes that that would not have to happen often.

We recommend, then, that the regulator be given this range of rehabilitation powers and that the government take action in that area very quickly. As long as the current system exists, if a company finds itself in trouble the regulator has only the choice of non-intervention or liquidation. Clearly, a much wider range of powers can delay the Draconian step of liquidation of a company until a series of other measures have been tried.

• (1610)

Honourable senators, the report talks about three or four other issues upon which I will not comment. There is a significant amount in the report concerning the need to provide additional information to consumers. If we begin putting some of the responsibility on consumers for their purchase decisions, there is a need for them to have more information.

Several issues related to corporate accountability and corporate governance are also included in the report, and I will not touch on them today, either. I know some other senators intend to touch on those issues.

Returning to the two principles I stated at the beginning of this speech, I repeat that by imposing a small element of responsibility on consumers — just enough to force consumers to start thinking about the decisions they have to make with respect to where they deposit their money and buy their life and health insurance policies — the committee believes that this development will create a significant impact in terms of market discipline. The regulatory system will improve significantly.

On the other hand, with respect to ensuring that the regulatory system is not too rigid, there will be failures down the road. Only an excessively rigid system can prevent all failures. That is not desirable.

By giving additional powers to the regulator and moving significantly in terms of increased public information being made available, and by creating the policyholder protection fund, there will be a much wider range of options available to insurers and regulators for dealing with financially troubled companies. It is to be hoped that the Draconian situation in which ultimately a company is put into receivership can be avoided.

The implementation and establishment in law of a range of powers for the regulator will be a significant step forward in terms of helping an orderly transition and orderly consolidation of the insurance industry in Canada. Evidence has easily shown that there needs to be some modest consolidation in the industry.

Between the new policyholder protection fund and the new powers for the regulator, this transition can be achieved in a way that is not only better for shareholders of companies, but also better for policyholders of insurance companies and deposit holders in financial institutions, and thereby better for all Canadians.

Hon. Senators: Hear, hear!