



'The banks would lend to anybody – now even J.P. Morgan himself probably couldn't get a loan'

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Newspaper of the year

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Enforce Asian regulations to protect the investors

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From Ms Teresa Barger.

Sir, Sundeep Tucker ("Asian debacles highlight need for reform and greater scrutiny" January 16) makes excellent points about the need for protection of investors in emerging Asia. I would like to take this further.

There has already been a great deal of new law and regulation. Seventy countries, of which 46 are emerging markets, now have corporate governance codes. And half the new codes were instituted since 2002. India, the land of Satyam, was an early adopter with a code published in 1997 and updated in 2003.

I would argue that what is really needed is wise enforcement from two fronts.

First, government authorities need to enforce regulations and make it clear that investor complaints are welcome and will be investigated. And if one or two swift and successful legal actions can be brought against securities law violators, that is even more powerful - although civil shareholder suits are virtually never seen in most Asian markets.

Second, market-based enforcement by investors and the independent analyst community needs to go further than simply believing published reports and the box-ticking of governance analysts (some of whom saw fit to give Satyam the "Golden Peacock" award for good governance.) Investors have a duty to their fund-holders to delve beyond the form of governance representations to understand the substance of financial controls, decision-making processes, asset allocation, related-party transactions and the like.

Mr Tucker makes the point that these corporate governance issues are more likely to receive attention in a world of naked swimmers. But it is our experience that some markets are sceptical and wise in both bull and bear markets. In go-go Korea of 2003-04, for example, better-governed companies were found to fetch a 160 per cent premium over poorly governed companies (Black and Jang, August 2004). With a little more investor attention, perhaps this can increasingly become the norm.

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