Dear Committee

I am a concerned Australian who has bank deposits and would like to know in writing which deposits the government intends to bail in. I object to the government passing this Amendment based on the facts below:

1. Australia is a member of the G20 which in 2009 directed the Financial Stability Board (FSB) at the Bank for International Settlements (BIS) to develop a policy to resolve future banking crises without needing taxpayer bailouts. Instead of requiring banks with deposits to stop the reckless financial gambling in derivatives that caused the 2008 crash, the FSB developed the abominable policy of "bail-in" to make depositors pay to prop up (resolve) banks when they fail.
2. As a G20 member Australia endorsed FSB's 2011 "Key Attributes of Effective Resolution Regimes", of which Section 3.5 "Bail-in within resolution" mandates that banking authorities must have the power to "write down", or "convert into equity", "unsecured creditors", which by definition includes depositors.
3. The nations and jurisdictions Australia is closest to all have bail-in powers that apply to deposits; these include the USA, UK, EU, Canada, and most significantly, New Zealand, which has the most explicit deposit bail-in policy called Open Bank Resolution, and where the major banks are all subsidiaries of Australia's big banks.
4. In April 2013, a month after bail-in was applied for the first time to deposits in two banks in Cyprus, an FSB report called "Implementing the FSB Key Attributes of Effective Resolution Regimes—how far have we come?" revealed that "bail-in … legislation is in train … in Australia".
5. After some delay, in October 2017 the Turnbull-Morrison government introduced its bail-in law, the Financial Sector Legislation Amendment (Crisis Resolution Powers and Other Measures) Bill 2017, at a time when pressure was building on G20 countries to comply with the FSB's bail-in regime. In November 2017 ratings agency Moody's complained in a release that among Asia-Pacific banking systems "only Hong Kong and New Zealand authorities have the power to bail in depositors" and that the rest of the region, which includes Australia, continues to lag behind Europe and North America "in implementing bank resolution and bail-in regimes as prescribed under the FSB's framework".
6. The 2017 Crisis Resolution bill, now law, empowers the bank regulator APRA to order the bail-in of certain Tier 1 and Tier 2 capital securities which include bail-in in their terms and conditions, known as contingent convertible (co-co) or "bail-in" bonds; however, Section 11CAA Definitions defines that "conversion and write-off provisions" relate to: "(a) Additional Tier 1 and Tier 2 capital; or (b) *any other instrument*." (Emphasis added.) Legal analysis confirmed that this broad language creates a loophole that could extend a bail-in to include deposits.
7. The 9 February 2018 report of the Senate Economics Legislation Committee's inquiry into the Crisis Resolution bill admitted the bill was based on the FSB's Key Attributes (which include deposit bail-in): "The legislation proposed in the bill draws on these criteria in forming its plan for financial crisis resolution and resolution planning."
8. In response to submissions from the Citizens Party (then CEC) and thousands of concerned Australians, the government, Treasury, RBA, APRA

and ASIC all claimed the bill would not bail in deposits and that deposits are protected up to $250,000 per person per bank through the Financial Claims Scheme (FCS). However, former APRA Principal Researcher Dr Wilson Sy pointed out that the FCS rules state it must first be “activated” for the deposit guarantee to apply, and there is no obligation on the government to activate it; then-Treasurer Scott Morrison conceded in a February 2018 letter to Ken Wyatt MP that “the government retains discretion to activate the FCS when an institution fails”—an admission that would surprise most Australians and even politicians who assume it is an iron-clad guarantee currently in force. Moreover, the FCS is intended to apply only *when* a bank fails, whereas bail-in is intended to be applied earlier to *avert* a bank failure, so it does not protect deposits against a bail-in.

9. The bill passed into law on 14 February 2018 in suspicious circumstances wherein the government rushed it through in the Senate with only eight Senators present and while the two Senators from Pauline Hanson’s One Nation weren’t in the chamber, despite One Nation having informed the government they intended to move an amendment to explicitly exclude deposits from being included in “any other instrument”.
10. Later in 2018 economist John Adams and banking expert Martin North demonstrated, confirmed by independent legal opinion, that banks are able to change the terms and conditions of deposit accounts under orders from APRA and virtually without notice to enable the deposit accounts to be bailed in under the 2018 law.

It is not good enough for the *government* to say its 2018 law won’t apply to deposits—the *legislation* must say it can’t. That’s what the Banking Amendment (Deposits) Bill 2020 will do, but it will not change the rest of the law in any way. If the government is genuine in saying it won’t bail in deposits, it will support this bill to put it in writing and thereby clarify the law; if it does not, the question is why would they prefer to keep it in doubt unless they really do intend to bail in deposits?

In closing, I demand Parliament pass the amendment to guarantee our savings in bank deposits can’t be confiscated through a bail-in.

Yours sincerely

Ms I J Papageorgiou