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To: The Senate Economics Legislation Committee

Re: [Banking Amendment \(Deposits\) Bill 2020](#).

We refer to the above proposed amendment to the *Banking Act 1959*. The amendment does three things:

- It stipulates that the clause “any other instrument” in the 2018 APRA Crisis Resolution law cannot apply to deposits;
- It adds an all-encompassing definition of “deposits” to ensure no deposits of any type can be bailed in;
- It explicitly forbids APRA from undertaking a “back door” bail-in of deposits by ordering banks to change the terms and conditions on deposit accounts.

It is our understanding that this amendment bill, introduced by One Nation Senator Malcolm Roberts on 27 February, will only ensure the 2018 law cannot apply to bank deposits and affects no other changes to that law. We draw the following matters to the attention of the Committee:

- To the best of our knowledge, in every jurisdiction in the world with a bail-in law, that law applies to deposits;
- The government claims the 2018 law doesn’t apply to deposits, but the broad wording creates too much uncertainty;
- In our view, if the government was bona fides about its assurances, it would have no issue with passing the amendment;
- The uncertainty undermines confidence in the banks,
- If the government is genuine about not bailing in deposits, it should put its assurance in writing in the legislation by passing the Banking Amendment (Deposits) Bill 2020;
- Given that all this bill will do is remove all uncertainty, why would the government not pass it unless the 2018 law is intended to leave the door open for banks to bail in deposits in a future banking emergency?

We should be grateful if the Committee would take our submission into account.

Yours sincerely

Patrick Heilmeier and Stefan Geisler