

26/06/2020

To the Senate Economics Legislation Committee,
Regarding the Banking Amendment (Deposits) Bill 2020

Since childhood I have saved money in a Savings Bank, beginning in State School, and continuing throughout adulthood I've received bank interest payments and been able to make bank deposits and withdrawals for my use only.

Today, however, after reading The Financial Sector Legislation Amendment (Crisis Powers and Other Measures) Act 2018 (which has amended the law in relation to the financial sector, including amending the Banking Act 1959 and seven other related Acts) I have concerns, because of the present economic crisis resulting from COVID-19 driving the Australian economy downward, about what the related purposes of this Act can be used for.

Bank customers' bank deposits are not defined, clarified, exempted and therefore protected from bail-in within The Financial Sector Legislation Amendment (Crisis Powers and Other Measures) Act 2018 Subsection 5(1) (definition of prudential matters); its Subsection 5(1) (definition of recapitalisation direction); and its Subdivision B- Conversion and write-off provisions.

As Senator Roberts has stated in his explanatory memorandum relating to the bill, since the passing of the *Financial Sector Legislation Amendment (Crisis Resolution Powers and Other Measures) Act 2018*, there have been doubts as to the meaning and intent of various provisions in the Act as to the extension by the Act of power to APRA to implement, authorise or direct bail-in to deposit accounts where the instruments relating to the creation of such accounts did not provide for a power of bail-in being the writing off or conversion of deposit accounts.

It is therefore important to the well-being of all Australian banking customers, myself included, that the conversion and write-off provisions introduced into the *Banking Act 1959* by the *Financial Sector Legislation Amendment (Crisis Resolution Powers and Other Measures) Act 2018* do not apply to deposit accounts. Our economy needs rapid Government financial investment for infrastructure and industry to get the Australian national financial situation and economy up and running and strong again. But since both these problems exist, we the Australian people petition the Government to fix up the written legislation as per Senator Roberts' Bill.

Specifically, I support Senator Malcolm Roberts' *Banking Amendment (Deposits) Bill* for an Act to amend the **Banking Act 1959**, and for related purposes – explained further in my submission.

I also support Senator Roberts' *Banking Amendment (Deposits) Bill* **Commencement** Information that **Commencement** of each provision of this Act specified in *column 1 of the *table commences, or is taken to have commenced, in accordance with *column 2 of the *table. Any other statement in *column 2 has effect according to its terms. (NB:* See column 1 and 2 of the table in the copy of the Bill found on the [Bills and Legislation section of the Parliament's website](#)).

Additionally, I support the **Schedules** for Senator Roberts' *Banking Amendment (Deposits) Bill*:

That **Legislation** that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

I support all the **Schedule 1—Amendments** into the Banking Act 1959

1) **Section 11CAA**

Insert:

bail-in, in relation to a deposit account, means to convert or write off the deposit account.

2) **Section 11CAA (at the end of paragraph (b) of the definition of *conversion and write-off provisions*)**

Add "(not including a deposit account)".

3) **Section 11CAA**

Insert:

deposit account means an account that is kept: (a) by an account-holder (whether alone or jointly with one or more other account-holders) with an ADI; and (b) under an agreement between the account-holder and the ADI, requiring the ADI to pay the account-holder, on demand by the account-holder or at a time agreed by them, the net credit balance of the account at the time of the demand or the agreed time (as appropriate).

4) **After subsection 11CAB (1)**

Insert:

(1A) To avoid doubt, the reference to an instrument in subsection (1) does not include a deposit account.

5) **At the end of Subdivision B of Division 1A of Part II**

Add:

11CAD No bail-ins of deposit accounts

(1) Nothing in this Act or any other Commonwealth law gives **APRA** power (whether by way of a prudential standard or otherwise) to:

- (a) implement a bail-in of deposit accounts; or
- (b) authorise or direct the implementation of a bail-in of deposit accounts; or
- (c) authorise or direct the amendment of any contract, agreement or other instrument to provide for a bail-in of deposit accounts.

I wholeheartedly agree with Senator Roberts' Bill. It will avoid doubt as to the meaning and intent of various provisions in the *Banking Act 1959* in relation to bail-in. Bail-ins are where money held in bank accounts is taken by the bank, and converted to shares in the bank; thus Australians, including myself, need protection of their bank deposits from bail-in conversion and write-offs by banks, from the Government in writing and put into the actual legislation.

The clarifying effects (for myself as an Australian citizen and a bank customer) of the Banking Amendment (Deposits) Bill 2020 will include:

- a) confirmation that the conversion and write-off provisions of the Banking Act 1959 do not apply to my deposit accounts as defined in the Bill.
- b) confirmation that nothing in the Banking Act 1959 or any other Commonwealth legislation extends power to APRA to implement or authorise or direct the implementation of bail-in in respect of my deposit accounts as defined in the Bill.
- c) Deposit accounts are defined in the Bill and include those accounts commonly understood as current or cheque accounts conducted by customers, including myself, with Australia's banks.

I welcome any other public forums, hearings, and discussions with experts. Yours sincerely, Alison Ryan