



Australian Citizens Party

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MEDIA RELEASE

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Frydenberg's fox in the hen house makes a mockery of financial regulation

Treasurer Josh Frydenberg's appointment of former Macquarie Bank CEO Nicholas Moore to oversee Australia's financial regulators proves that Kenneth Hayne must have been able to see the future. When Hayne sat across from Frydenberg in January 2019 to hand over his final report from the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, he refused to shake the Treasurer's hand or smile for the cameras. Hayne must have foreseen that Frydenberg had no intention of cleaning up the financial system, but was simply putting on an act for the cameras while biding his time, waiting for the political storm to blow over so he could trash Hayne's report and thereby spit on the tens of thousands of Australians destroyed by predatory banks and financial scammers, who desperately hoped the banking royal commission would lead to lasting change.

If that's what Hayne foresaw, Frydenberg has proved beyond the shadow of a doubt that he was right.

After promising to implement Hayne's recommendations in full, Frydenberg and the Morrison government have already trashed some of Hayne's most consequential recommendations:

- **Prosecute banks in court.** "Why not litigate?" Hayne rhetorically asked the corporate regulator, the Australian Securities and Investments Commission (ASIC). In response, ASIC under its former Chair James Shipton and his deputy Daniel Crennan did step up litigation against the banks and effectively drop the legal slaps on the wrist called "enforceable undertakings"; but Frydenberg forced them out over a fake expenses scandal, and their replacements, Joe Longo and Sarah Court, last week declared the why not litigate strategy "has had its day" and that enforceable undertakings "can be completely appropriate". Regulation expert Andrew Schmulow, a Senior Lecturer at the University of Wollongong's Faculty of Law, [wrote in *The Conversation*](#) on 14 September that this shift is an order from Frydenberg, via his [Statement of Expectations](#) to ASIC: "Confusion is to be expected when a regulator is told to both enforce and refrain from enforcing the law...."
- **Criminal prosecutions for "fees for no service".** Hayne recommended the \$850 million that AMP, ANZ, CBA, NAB, Westpac, and others had admitted taking from dead people and people who received no service should be prosecuted as crimes, with possible jail terms; in mid-July ASIC and the Commonwealth Director of Public Prosecutions announced they would not pursue criminal charges against AMP "on the basis of the available evidence *and weighing the relevant public interest factors*", i.e. it was a political decision.
- **Responsible lending laws should be left unchanged.** Frydenberg has tried for two years to water down responsible lending laws, which James Shipton opposed, and with Shipton out of the way he is still trying, but so far has been blocked by the Senate. When James Shipton appealed ASIC's case against Westpac's lending standards in 2019, the government pressured him to drop the appeal.

Fox in the hen house

Frydenberg's latest action takes the cake, however. The way he has delivered on one of Hayne's recommendations, for a new independent oversight authority for ASIC and the Australian Prudential Regulation Authority (APRA), makes a mockery of the very concept of financial regulation. That is because he has directed the new authority, the Financial Regulator Assessment Authority (FRAA), to assess ASIC against his farcical Statement of Expectations, which deliberately kneecaps ASIC so it cannot be an effective enforcer of the law. And because his choice of chair for the FRAA, former Macquarie Bank CEO Nicholas Moore, is the ultimate fox in charge of the hen house.

Macquarie Bank, a.k.a. the "millionaire factory", is the most ideological bank in Australia. From when it commenced operations in 1969 as the Australian subsidiary of well-connected City of London merchant bank Hill Samuel, Macquarie has exploited its political connections to shape the wave of neoliberal economic reforms that transformed Australia from a manufacturing powerhouse into a financial services casino that filled Macquarie's coffers. Macquarie had a hand in all the major neoliberal reforms that deregulated Australia, including:

- the Campbell Financial System Inquiry that recommended mass deregulation and privatisation of

- Australia's banking system;
- the 1983 float of the Australian dollar;
 - the opening up of Australia to foreign banks, when Macquarie was the second foreign bank to obtain a banking licence;
 - National Competition Policy, which concentrated Australia's economy in the control of mega-corporations, including the Coles-Woolworths duopoly;
 - compulsory superannuation, which gave Macquarie access to a massive pool of funds it has used to buy private infrastructure worldwide;
 - mass-privatisation of state assets—Macquarie was the single biggest beneficiary of Premier Jeff Kennett's \$30 billion privatisation of Victoria's electricity system in the 1990s.

To achieve these neoliberal reforms, Macquarie was involved in the right-wing economic think tanks that operated in Australia as satellites of the global think tank network spawned by the British Crown- and Bank of England-funded Mont Pelerin Society (MPS) and Thatcherite Institute of Economic Affairs (IEA). The Australian think tanks supported by Macquarie include the Institute of Public Affairs (IPA), the Centre for Independent Studies (CIS), and the former Tasman Institute in Melbourne, which has now evolved into a consultancy but in the 1990s wrote and directed Jeff Kennett's reform in Victoria; Nicholas Moore was a director of the Tasman Institute which wrote Kennett's privatisation agenda, and an active participant in the selling spree, both through earning Macquarie huge fees brokering the sales of the assets, and being involved in consortia that purchased the assets.

It's fair to say that no single institution did more to dismantle regulation and "financialise" Australia's economy than Macquarie Bank, and Nicholas Moore was in the thick of it. The deregulation philosophy he helped to entrench in Australia unleashed financial predators, including in the big banks, which led to the myriad abuses of everyday Australians that eventually forced the government to call the banking royal commission. Frydenberg's appointment of Moore to head the FRAA is a sick joke on the Australian people which must not be tolerated. The Citizens Party is fighting very hard for a Senate inquiry into Australia's failed system of financial regulation, and what the government has done to ASIC to ensure it cannot properly police the system—join the fight.

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