



Australian Citizens Party

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MEDIA RELEASE

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Bail-in cover-up unravels

Call politicians to demand public hearings and Parliament pass the [Banking Amendment \(Deposits\) Bill 2020](#) to guarantee our savings deposits can't be bailed in.

The great bail-in cover-up is falling apart! In response to the current Senate inquiry into Senator Malcolm Roberts' Banking Amendment (Deposits) Bill 2020, the government has doubled down on its claim that bank deposits can't be bailed in, [but has been caught making clearly false statements](#). Meanwhile the extra scrutiny the inquiry has attracted has drawn out experts who confirm the law is ambiguous and must be clarified.

Former Liberal Party Opposition Leader Dr John Hewson tweeted on 19 July: "Parliament should endorse the Banking Amendment (Deposits) Bill to explicitly rule out the possibility of 'bail in' where authorities would allow banks to convert your deposits to shares in a banking crisis—should be a 'no brainer' for any government".

It is a no-brainer—so why is the government determined to stop it?

In the most comprehensive Australian mainstream media report on bail-in to date, ABC business reporter Nassim Khadem's 17 July article "[Coronavirus crisis heightens fears bank deposits could be wiped out under 'ambiguous' laws](#)" dissected the various arguments about whether the 2018 Crisis Resolution Powers law (which the government snuck through Parliament with only eight senators in the chamber) could in any way extend to bail in ordinary bank deposits, contrary to the government's claims it can't.

Khadem cited the Citizens Electoral Council (now Citizens Party), solicitor and Citizens Party member Robert Butler, former Australian Prudential Regulation Authority (APRA) Principal Researcher Dr Wilson Sy, banking expert Martin North, and outspoken independent economist and former Liberal Party advisor John Adams, whose submissions to the inquiry clearly demonstrated there is ambiguity in the law.

Bombshell!

The most explosive submission to the inquiry is from former Australian Banking Association Policy Director and advisor to John Howard and Alexander Downer, Nick Hossack, who confirmed: "Senator Roberts *has identified uncertainty* in the *Banking Act 1959* over whether bank deposits can be written off or converted to equity." (Emphasis added.) But as Khadem highlighted, Hossack advocated the law should be clarified to do the opposite of Senator Roberts' bill—make it explicit that deposits can be bailed in!

Using a dry economic argument that the Reserve Bank of New Zealand has adopted, Hossack wrote: "If legal clarity is the goal, then it would be better for market discipline of banks to be clear in the legislation that depositors do face some risk of write-off or conversion to shares." So if there were any doubt, this proves that high-level people in the Australian financial system *want* deposits bailed in.

Nassim Khadem concluded: "Politically, it is likely the Government will remain reluctant to change the law to more clearly state there will not be bail-ins. Such a move could send a signal to the wider community that it feels there is a risk and that might spook the public into a bank run, where a large number of people rush to pull out their deposits. But depositors need to be provided with clear information so that they are aware of the risks they face in the event that a worst-case scenario eventuates. Only then can they make informed decisions about what they do with their money."

Treasury and APRA lies and omissions

As the Citizens Party exposed on 17 July, Treasury and APRA did not tell the truth in their submissions to the Senate Committee:

- Treasury did not acknowledge the 2018 legislation was based on the Financial Stability Board's mandate that deposits should be bailed in, which policy Australia endorsed in 2011;
- Treasury claimed that the *Banking Act 1959* contains "explicit provisions" that "expressly" protect deposit accounts from bail-in—it absolutely does not (the *Banking Act* doesn't even mention deposit accounts);

- APRA said four times its “paramount objective” is the protection of deposits, but this isn’t true—APRA has twin objectives to protect depositors *and* promote “financial system stability”, and not only does the latter trump the former, but financial system stability is the Financial Stability Board’s explicit justification to bail in deposits (lose some or lose all);
- APRA stated banks cannot change the terms and conditions of deposit accounts because it would breach ASIC’s unfair contracts legislation, but ASIC states that [only a court can determine what is an unfair contract](#), which takes years; so even if it’s true, it’s possible for a bank bail-in to happen and only years later for a court to rule it illegal, while in the meantime the victims have been ruined.

Call and email MPs and Senators!

The bottom line is the [Banking Amendment \(Deposits\) Bill 2020](#) will put the issue beyond all doubt. If it is passed, *there can be no bail-in of deposits!* Concerned Australians have about three weeks to flood politicians with phone calls and emails demanding they pass Senator Malcolm Roberts’ bill. Make these points to the politicians:

1. There is confusion over bail-in which the bill will clarify;
2. APRA is saying it won’t bail in deposits because its “paramount objective is to protect depositors”, but it is deliberately not saying that under the law that objective is balanced against “financial system stability”, which is the reason used worldwide to bail in deposits;
3. Treasury’s submission didn’t mention that Australia is part of the FSB, which says bail-in should include deposits, and lied that the *Banking Act* already contains “explicit” provisions that “expressly” protect deposits from bail-in, when it doesn’t;
4. The entire purpose of Senator Roberts’ bill is to insert into the *Banking Act* an “explicit” provision that “expressly” protects deposits from bail-in—why is the government trying to stop it?
5. Call the members of the committee to demand they take advantage of the cancellation of the next sitting of Parliament to extend the inquiry to hold public hearings at which experts on all sides can testify.

Here are the contact details for the members of the committee:

Chair: Senator Slade Brockman (Lib)

(08) 6245 3305

senator.brockman@aph.gov.au

Deputy chair: Senator Alex Gallacher (ALP)

(08) 8269 6022

senator.gallacher@aph.gov.au

Senator Andrew Bragg (Lib)

(02) 9159 9320

senator.bragg@aph.gov.au

Senator Jenny McAllister (ALP)

(02) 9719 8100

jennifer.mcallister@aph.gov.au

Senator Susan McDonald (LNP)

(07) 4771 3066

senator.mcdonald@aph.gov.au

Senator Rex Patrick (CA)

(08) 8232 1144

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Click here to sign the petition: [Hands off our bank deposits—stop ‘bail-in’!](#)