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Financial Sector Legislation Amendment (Crisis Resolution Powers and Other Measures) Bill 2017 Written Questions on Notice – APRA – January 2017

1. Submissions received
 - a. Can you please provide a response to issues raised in the following submissions and supplementary submissions:
 - i. Dr Wilson Sy (submission 1)
 - ii. Banking and Finance Consumers Support Association (submission 6) – particularly dot point 3 on page 3.
 - iii. Citizen’s Electoral Council (submission 11 and supplementary submission 11.1)

2. Section 11CAA of the bill defines “conversion and write-off provisions” as:
conversion and write-off provisions means the provisions of the prudential standards that relate to the conversion or writing off of:
 - (a) Additional Tier 1 and Tier 2 capital; or
 - (b) any other instrument
 - a. What was the intent of including section (b) in the legislation?
 - b. Can section (b) be interpreted to include bank deposits as an instrument that could be converted or written off?
 - c. If yes, does this imply that bank deposits could be subject to, in the words of some submitters, a “bail-in”? If no, please explain how deposits are specifically excluded in the legislation.

3. Hybrid Securities
During the last round of Senate Estimates, former head of ASIC Mr Greg Medcraft raised a number of concerns about sales of hybrid securities to retail investors (page 30 of Treasury Estimates Thursday 26 October)
 - a. Can you confirm that hybrid securities sold by authorised ADIs and insurers that comply with either Tier 1 or Tier 2 capital requirements could be subject to write-down or write-off under this bill?
 - b. Of the reported \$43.3 billion of hybrid securities that exist as of June 2017, can you provide breakdowns by:
 - iv. How much was issued by Authorised ADIs and complies with Tier 1 or Tier 2 capital requirements?
 - v. How much was issued by insurers and complies with Tier 1 or Tier 2 capital requirements?
 - vi. Of 3(b)(i) – how much is held by retail investors or SMSFs (both total value and average/median value held per owner)
 - vii. Of 3(b)(ii) – how much is held by retail investors or SMSFs (both total value and average/median value held per owner)
 - viii. What disclosure requirements are required before a retail investor or SMSF can invest in such a security? Are there requirements for disclosure of risks, including the risk of conversion or write-off should the issuer become insolvent?

Answer:

APRA agrees with the responses provided by Treasury on Questions 1-3 above, on which we provided input.

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1. Notwithstanding the fact that your submission made abundantly clear that this legislation could not be considered 'bail-in' legislation, does this Bill give additional power to APRA to force an ADI into a capital restructure using capital instruments other than preferred equity and hybrid capital?
2. Can you please confirm for the Committee how this legislation assists APRA in regulating the compliance of ADIs and insurers with the Basel III Accords?
3. On page 7 of the submission, it states that APRA will be given greater power with regard to the financial claims scheme. Can you please confirm that there will be no changes to the deposit amounts insured by the financial claims scheme?

Answer

1. Under the Banking Act, APRA already has the power to set prudential requirements in respect of the type and quantum of capital instruments that an ADI must hold. This Bill does not add to or change APRA's existing powers to require an ADI to meet certain capital requirements. At present, APRA's capital framework provides for common equity tier 1 (CET1), Additional Tier 1 capital (AT1) and Tier 2 capital (T2) in accordance with Basel III, and APRA has no current proposal to change this. In the event any such changes were proposed in the future, these would be subject to APRA's usual consultation processes and the other requirements of best practice regulation.
2. APRA agrees with the answer provided by Treasury on this Question, on which we provided input.
3. The deposit amount insured by the FCS is a matter set by the Government not by APRA. APRA is not aware of any proposal to change it from the current amount. This Bill makes no changes to these arrangements.