

To: Senate Standing Committees on Economics

Date: 25th June, 2020

Submission on The Banking Amendment (Deposits) Bill 2020

I thank the Committee for the opportunity to make a formal submission on this Bill. I am not a member of any political party and I speak from personal experience as to why this Bill must be legislated

I support the Bill on 4 points, which I detail below in respect of my own research and findings:-

- 1) There is no current legislation that includes wording to specifically protect deposits. The provisions in this Bill are succinct and clear to both regulators, banks and customers.
- 2) Due to uncertainty, Banks have made their own changes to Deposit Account terms and conditions which indicate potential for 'bail-in' and which this Bill would legislate against.
- 3) The Government's Financial Claims Scheme for deposits up to \$250,000, is no guarantee of a pay-out.
- 4) This Bill would bolster confidence in the banking system and give clarity that deposits are not 'other instruments' for potential bail-in.

As a result of 2018 legislation, the Financial Sector Legislation Amendment (Crisis Resolution Powers and Other Measures) Act 2018, which permits conversion and/or write-off of certain instruments (eg Tier 1 and 2 capital and hybrid bonds and any other instrument), I transferred inherited funds into term deposits and transaction savings accounts to avoid potential losses from high risk investments which could be bailed-in or converted under that legislation. I thought this protected the future inheritance of my children and grandchildren.

Government, Treasury and your Committee assured us that deposits could not be bailed-in under that particular legislation which gave additional powers to APRA in the event of a bank failure. This legislation was in response to directions by the Financial Stability Board for implementing banking 'resolution powers' and confirmed during the 2014 G20 Summit in Brisbane, so that taxpayer funded bail-outs of Too Big To Fail banks did not occur, as was the case in the 2008 Global Financial Crisis.

Because there are loopholes in current legislation affecting how deposits could be treated during a crisis, Banks have pursued their own agendas to shore up their own positions.

On the same day that a new Banking Code of Practice was implemented on 1st July 2019 to assuage the level of mistrust arising from the Banking Royal Commission findings, major banks flagrantly changed their terms and conditions for deposit accounts to implement their own 'bail-in' type clauses. For example, HSBC, with whom I have now closed deposit accounts:-

## **HSBC 1st July 2019 - Changes to Deposit Bank Account Terms and Conditions**

### **Clause 10 “Miscellaneous” (page 100)**

- Clause 10.7 is deleted and replaced as follows:

10.7 Both you and we will not be liable to each other for any of the following losses or damages (whether you or we knew or could foresee any of these losses or damages):

- a) loss of revenue;
- b) loss of actual or anticipated profits;
- c) loss of the use of money;
- d) loss of anticipated savings;
- e) loss of business;
- f) loss of opportunity;
- g) loss of goodwill;
- h) loss of reputation; or
- i) any indirect, consequential or tortious loss or damage however caused.

This is not unique to HSBC. Banks such as the CBA have also implemented egregious terms and conditions on unsuspecting customers, to allow the bank to suspend an account or not process a transaction, without notice, to manage regulatory risk, hence stopping customers accessing their funds.

Few bank deposit holders would be aware of these behind the scenes changes, relying solely on a government guarantee to protect their deposits.

The Government's Financial Claims Scheme is not an automatic protection for deposit accounts. Bank customers are being misled that their deposits are Government guaranteed up to \$250,000. Firstly, the Bank must fail. Secondly, the government must enact the scheme. This is not automatic and won't necessarily occur if the bank is required to 'manage regulatory risk' before a complete failure, using its newly hatched terms and conditions and the ability to change those without notice.

The Banking Amendment (Deposits) Bill is vital to provide definitive legislation that the deposit accounts outlined in the Bill are protected from any kind of bail-in by APRA and the Banks themselves, and also independent of any 'financial stability' actions that have been dictated by the Financial Stability Board.

I urge the Committee to support the Banking Amendment (Deposits) Bill 2020.