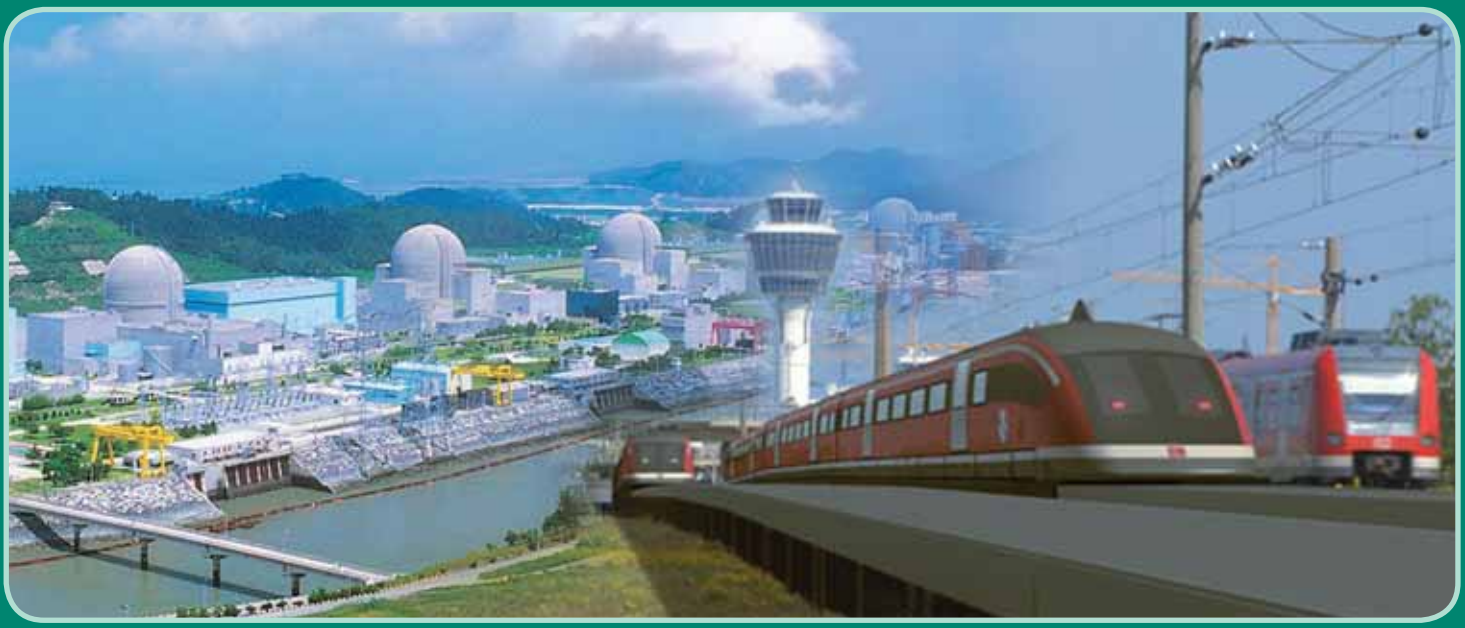
The Next Financial Crash is Certain!

End the BoE – BIS – APRA

Bank of England | Bank for International Settlements | Australian Prudential Regulation Authority

Bankers' Dictatorship



Time for Glass-Steagall Banking Separation and a National Bank!

Citizens Electoral Council of Australia

$35

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First Printing: May 2018

Printed by Citizens Media Group PL
Coburg VIC 3058

Cover image: composite of the Hanbit Nuclear Power Plant (South Korea) and an artist's impression of the proposed Munich Airport (Germany) maglev train.

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The Next Financial Crash is Certain!

End the BoE–BIS–APRA* Bankers' Dictatorship—

Time for Glass-Steagall Banking Separation and a National Bank!

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*Bank of England, Bank for International Settlements, and Australian Prudential Regulation Authority

Letter of Transmittal

This publication is designed as a guide for the overhaul of Australia's financial system, in the face of the looming next global financial crisis, worse than the events of 2008-09. The myth that "Australia has one of the strongest and most stable banking, superannuation and financial services industries in the world … and world's best prudential regulation and oversight" (the words of the December 2017 Letters Patent for the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry) is false. In 2008 the Rudd Government stepped in with guarantees for Australia's "Big Four" banks' foreign borrowings, their deposits, and, in effect, their mortgage loans; without that action, they would have collapsed. The situation has worsened in the past ten years.

Now, the Royal Commission is bringing to light a horrific, systemic pattern of fraud and abuses by the Big Four. The current banking system is diseased, and must be replaced. An alternative economic policy paradigm is available, centred on real, physical economic development and the national interest. Our intention here is to provide a reference manual on both the current crisis, and the principles and particulars of solutions for it.

There was a rapid exacerbation of the crisis, and a surge of political activity related to it, during the months when we prepared this pamphlet, from late 2017 into early 2018. The Turnbull Government's sneak announcement, in August 2017, of legislation to give the Australian Prudential Regulation Authority (APRA) "crisis resolution powers" for bank failures, forced the issue. The Citizens Electoral Council of Australia took the lead in mobilising to block that bill and its potential for "bail-in"—the confiscation model authored by the Financial Stability Board of the Bank for International Settlements (BIS) and tested out with the seizure of depositors' funds in Cyprus in 2013. With thousands of Australians pounding the Parliament, passage of the law was held up until February 2018. In the interim, Prime Minister Malcolm Turnbull bowed to growing outrage over the misconduct of the Big Four and allowed formation of the Royal Commission, although excluding APRA (which was supposed to have been supervising the banks) from its purview. The abuses revealed in the early Royal Commission hearings, in March and April 2018, have already made an explosive impact on Australian politics, sparking calls to "break up the banks".

Sections of Part 2 (p. 29), Part 3 (p. 62), and Part 4 (p. 75-77) discuss the nature of the current crisis. Its rapid unfolding, together with the discovery of ever greater crimes of the big banks, underscore the urgency of turning to thorough-going solutions.

This handbook begins with those solutions, before delving into the crisis as such and the crimes of the banks. By looking ahead to the economic goals the nation and the world should pursue, it is possible to determine what kind of changes are required now, to achieve those future goals. Thus, Part 1 is on "National Banking". CEC Research Director Robert Barwick and I present historical cases, starting with the work of the first U.S. Treasury secretary, Alexander Hamilton, of the shaping of banking and financial policy to meet the needs of the people and the nation. Hamilton's conception was forward-looking. The national bank would fund "useful manufactures" and the nation's prosperity, based not on past savings and present financial constraints, but on the future profitability of the projects it backed.


Craig Isherwood

Included is Australia's own impressive, but now largely suppressed and forgotten, experience of national banking. The voices of King O'Malley, Denison Miller, John Curtin and Ben Chifley are crucial for solving the current crisis.

To help with mastering the fundamentals of national banking, we demystify the creation of credit and money. Time and again, the CEC's proposals for building high-speed rail, great water projects, and other essential infrastructure are met with the protest, "Where will the money come from?" In fact, credit is created out of nothing. The Bank of England (BoE) acknowledges in its 2010 pamphlet *Quantitative Easing Explained*: "The Bank creates money". When the Commonwealth Bank first opened as Australia's national bank in 1913, its Governor Denison Miller proclaimed, "This bank is being started without capital, … but it is backed by the entire wealth and credit of the whole of Australia." There is a radical difference between these two examples. The credit and money created by the BoE and the U.S. Federal Reserve since the 2008-09 GFC have been poured into bailing out banks to save them from losses brought on by their own financial speculation. Miller's national bank, in contrast, was creating credit for productive enterprises in the national interest. The difference between "bailout" credit-creation and productive credit-creation lies in the intention and purpose. The latter is sound, whereas the former inevitably will explode.

Glass-Steagall Banking Separation

Also during the writing of this pamphlet, the CEC drafted legislation, included in Part 4, for the first step in placing the financial system at the service of the real economy and the citizenry: Glass-Steagall banking

separation. The U.S. *Glass-Steagall Act* of 1933 curbed the Wall Street financiers, whom President Franklin Roosevelt termed "economic royalists". It strictly separated deposit-taking commercial banks that lend to households and businesses, from all other types of financial activity, such as "investment banking" and other speculation for monetary gain.

Today, a return to Glass-Steagall is on the agenda in many countries. It will halt the conflicts of interest inherent in today's "vertically integrated" megabanks, clearing the way for a restoration of non-predatory lending and ending public subsidy of the banks' speculation. In Part 4, we excerpt the 1933 law, as well as the bipartisan 21st Century Glass-Steagall bill, introduced in the U.S. Congress in 2017. Full Glass-Steagall separation came within a few votes of being enacted in the UK, as an amendment to the *Financial Services (Banking Reform) Act 2013.*

Part 3 presents Glass-Steagall as a universal principle, as a necessity for Australia, and in its crucial role in China's successful economy of the past two decades. Introduction and passage of the Banking System Reform (Separation of Banks) Bill 2018 is a top priority for Australia.

Adoption of the original *Glass-Steagall Act* was boosted by January 1933 hearings, conducted for the U.S. Senate by prosecutor Ferdinand Pecora, on the Wall Street banks' gross misconduct. Today's Royal Commission on Australian banking misconduct has become a new Pecora Commission, uncovering similar abuses, which are previewed in the "Crimes of the Australian Banks" chapter of Part 2; our reprinted interview with police official Luke Cornelius shows that the banks' complicity in large-scale drug-trafficking, for example, dates back to the 1990s. In the international arena, banking behemoths JPMorgan Chase and HSBC were fined $35.2 billion in 2011-14 alone, for financial crimes like mortgage fraud (even though each fine was but a slap on the wrist, compared with their ill-gotten gains). Now, as in Pecora's day, these crimes are not aberrations, but demonstrate that the system is corrupt from top to bottom.

In Part 2 we take it from the top, mapping "The British Crown/City of London Criminal Financial Empire" and the apparatus, organised through the BIS under BoE direction, that enforces its interests. The BoE-BIS scheme for bail-in exposes this international bankers' dictatorship in action. Just as within the UK the BoE today boasts that it "makes its decisions independently of government", so international banking rules are "created by global organisations such as the G20 [Group of 20], Financial Stability Board and Basel [the BIS] before being passed down to nations", in the words of a top City of London banker.

The UK, the USA and the EU have adopted bail-in as "passed down" from the BIS and the G20, with real political opposition arising only in Australia and India. The third section of Part 3 presents the CEC-led political fight to block bail-in powers for APRA, an institution typifying international control detrimental to the national interest. Modelled on the UK's Prudential Regulation Authority and functioning independently of the government, APRA not only has failed to regulate the banks, but it has protected their misconduct and encouraged their head-over-heels dive into real estate and financial derivatives speculation. The CEC's Glass-Steagall bill will force APRA to report to Parliament, rather than its international masters.

National Banking to Save the Country

Glass-Steagall is the first step, after which the larger task is to restore a banking system that promotes real economic development. With the Big Four exposed not only as criminal, but also as even more bankrupt than in 2008, thanks to their mortgage and derivatives speculation, we face the equivalent of a wartime emergency, just as PM John Curtin and Treasurer Ben Chifley did when they reinstated the Commonwealth Bank as a national bank during World War II. We must move quickly to establish such a bank once again, to which the existing banks, restored by Glass-Steagall to their proper activity of lending to the real economy, will be subordinated.

The final document of this handbook is draft legislation for a New Commonwealth National Credit Bank, which the CEC first put on the table in 1994. We offer it again now as a point of departure for deliberations on national banking, alongside important initiatives being made by others. Small Business Ombudsman Kate Carnell's proposal that banks be reclassified, and regulated, as an essential service is one of those—an idea in line with Hamilton's view that "public utility is more truly the object of public banks, than private profit".

The UK Labour Party of Jeremy Corbyn has gained huge support for "taking back" Britain's privatised rail, water, energy and postal systems. The issue of bank nationalisation will inevitably arise there, and in Australia as well if the Big Four prove to be bankrupt beyond repair. Dire times call for sweeping measures. In 2008 even the UK's pro-bank Brown Government took over HBOS Plc and the giant Royal Bank of Scotland, lest the entire, interlinked City of London system collapse. And when British Labour PM Clement Attlee nationalised the Bank of England in 1946, using the boost in public funding to jump-start the UK's remarkable post-war recovery, his government cited the precedent of Australia's Commonwealth Bank under Curtin and Chifley.

Sincerely,

Craig Isherwood, National Secretary
Citizens Electoral Council of Australia
2 May 2018

Part 1

National Banking

The Hamiltonian Revolution and FDR's Glass-Steagall

Robert Barwick
CEC Executive Member and Research Director

The most pressing challenge facing the world right now, is rapidly reversing the general economic breakdown that is driving the world into war. It can be done, but it will require abandoning the general axioms of political economy that have prevailed for the past three decades.

The economic crisis, outside of China and areas where China is active, has come from those axioms. Let me single out one symptom of the crisis: under-investment in infrastructure. Infrastructure is not just another part of the economy; it is the platform on which the economy functions, to meet the current and future needs of the population. The neo-liberal financial policies that have taken over since the 1971 collapse of the Bretton Woods system have failed to produce the infrastructure that the world needs. Instead, the waves of speculation unleashed by financial deregulation siphoned investment away from all the priority sectors of the physical economy, especially infrastructure, and pumped it into speculative bubbles—the financial markets, commodity markets, housing bubbles and the big one, the global derivatives bubble—that have been bursting since 2007-08.

There is now a consensus, worldwide, on the urgent need to invest in infrastructure. In Australia, the so-called "infrastructure deficit", that is, what should have been spent but wasn't, has been put at over *$700 billion*. U.S. experts have warned for a long time of the parlous state of its infrastructure. In the 2009 documentary "The Crumbling of America", the American Society of Civil Engineers documented the advanced state of collapse of America's bridges, dams, water and sewerage systems, power grids, etc., after decades of what they call "deferred investment". U.S. infrastructure spending at the end of the Eisenhower administration in 1961 was 12.5 per cent of the domestic budget; by 2009 it was 2.5 per cent, compared with China's 9 per cent. The engineers estimated it would take $2.2 trillion over five years just to repair America's existing infrastructure to an acceptable level, let alone build more. But when Congress passed the $800 billion stimulus bill in 2009, only $72 billion was earmarked for infrastructure. European nations have similarly under-invested in infrastructure. In the UK, for example, the economy outside of London is in desperate need of infrastructure, and an economic recovery more generally. This systematic underinvestment and ruthless austerity is a major factor driving the independence movements in Scotland and Wales.

Robert Barwick addresses the CEC's international conference, 28 March 2015.

Much of the developing world, particularly Africa, has been blocked from developing infrastructure on a scale commensurate with their needs. This has condemned many nations to seemingly endless poverty. Much of the destruction caused by severe weather events that nowadays gets blamed on climate change, is in fact the result of poor and decaying infrastructure.

Faced with this challenge, what can be done? Most nations are mired deep in debt. Haven't we run out of money? Just take Australia: we have a $50 billion deficit [March 2015]. How could we afford $700 billion for infrastructure?

The solution to this challenge requires understanding the false premise underlying these questions, which is that money is necessary to build infrastructure. It is not, and this is not a theory: the first secretary of the Treasury of the United States, Alexander Hamilton, demonstrated it to the world 225 years ago. In so doing, he designed a unique system of political economy, called the American System, which,

when used, drove America's spectacular development in the 19th and 20th centuries into the most powerful nation in the world, and inspired other nations, including Australia, to emulate it.

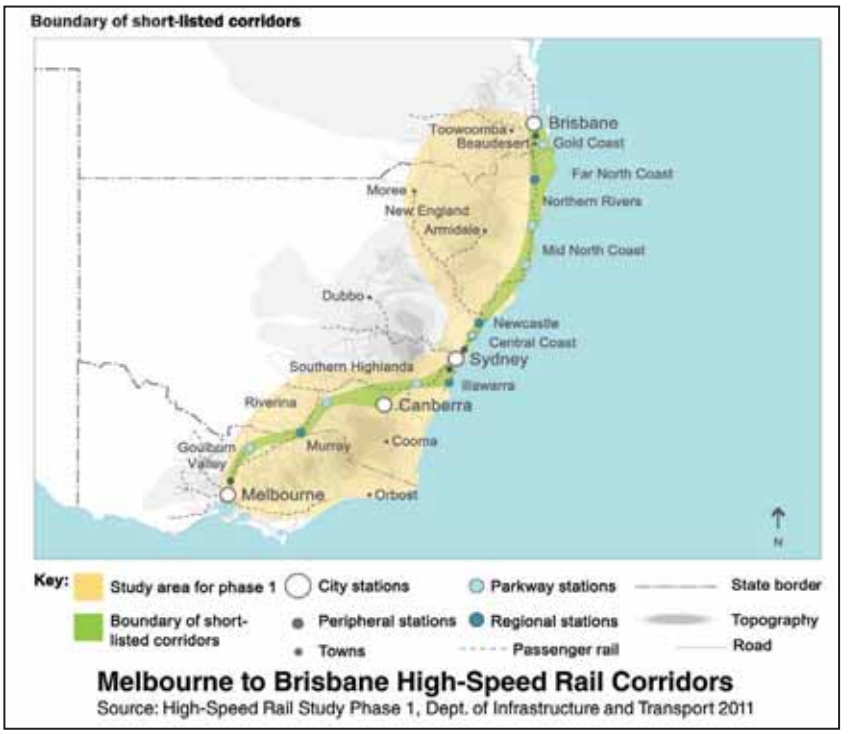
Funding Infrastructure

Before getting into the details of Hamilton's American System, let us first look at the other ways that experts today are proposing to address this infrastructure challenge.

First, the least controversial, but also most unlikely, way to fund infrastructure is through taxes. This approach is limited at the best of times, but it is especially limited nowadays in this era of steep budget deficits. Infrastructure is expensive, and long-term. Funding it out of short-term tax revenues is so difficult, that it is usually relegated to the end of the list of priorities, where it becomes "deferred investment". In truth, those who insist on funding infrastructure this way do so in order to ensure the infrastructure is never built. Take, for instance, the latest incarnation of a fast train from Melbourne to Brisbane **(Fig. 1)**.

The Gillard Government in 2013 announced that it was a feasible project, but would cost $114 billion, and take 50 years to build! They projected its completion would be in 2065. Almost by definition, a project over such a long time frame would never be built. The reason for this ridiculous estimate is that it was to be funded out of the annual budget. Compare this example with the speed at which China is building infrastructure at home and around the world **(page 66).**

FIGURE 1



Melbourne to Brisbane High-Speed Rail Corridors
Source: High-Speed Rail Study Phase 1, Dept. of Infrastructure and Transport 2011

A second way that is proposed to finance infrastructure is through private investment, or a combination of private investment and public funding—so-called Public-Private Partnerships. This is all the rage in recent times, pioneered by Australia, actually, through schemes cooked up by Macquarie Bank. Investment banks and managed funds all over the world have teamed up in an organisation called the Long-Term Investors Club (LTIC), which boasts of having over $90 trillion under management, that they are seeking to invest in infrastructure projects. On the face of it, this intention sounds good—a win-win for investors and governments. But it is far from so, and Australia is the proof of that.

Private investors do not fund infrastructure for infrastructure's sake; they want a return, and the highest return possible. Banks such as Macquarie that specialise in this business prey on investment opportunities that they can structure to ensure the highest returns; they therefore tend to invest in toll roads, privatised utilities and similar infrastructure—ports and airports are also favourites—which are effectively localised monopolies servicing a captive market, on which they can whack hefty user charges that cannot be avoided. Macquarie pioneered toll roads in Sydney, winning generous, multi-decade concessions from the government that in some cases ensured that "competitive" infrastructure, such as public transport rail lines, would not be built parallel to their toll roads. Sydney is now criss-crossed with these toll roads, but traffic congestion is as bad as ever.

Here are the biggest problems with privately funded infrastructure:

- Whereas infrastructure is supposed to boost productivity, which makes economic activity cheaper, the hefty user charges on toll roads and airports end up making the infrastructure an economic burden on the user.
- Infrastructure should be built for the future, so its capacity should always exceed current demand, but private infrastructure seeks to maximise immediate returns, so it is often intentionally built only to meet current demand, if that, and is equally often soon overwhelmed. Toll roads get built with three lanes each way, instead of six or eight, and later the users suffer extreme inconvenience, and cities slow to a crawl when extra lanes have to be added. This decreases productivity and increases real costs.

FIGURE 2

A third way to fund infrastructure is by governments borrowing money from private investors. Again, on the face of it, this is not the worst idea in the world, especially in today's economic climate. A lot of investors are so desperate for financial security above all else, that they are keen to lend to governments; the interest rates on government bonds have probably never been so low. The Australian government went from zero net debt in 2007 when Kevin Rudd was elected, to around $300 billion in net debt today [March 2015], thanks to the deficits and stimulus the governments ran as a result of the global financial crisis. If just a portion of that borrowed money had been invested in nation-building infrastructure, such as the 18 major water projects that the CEC proposed in 2002 **(Fig. 2)**, which were estimated would cost $40 billion, Australia's economy would be very different today—enjoying real prosperity.

As good as it sounds, there is a danger with this approach. Most private money that goes into government bonds is not invested by individuals, but by fund managers and banks working in tandem, or you could say hunting in packs—the so-called financial markets. The financier elite who dominate these markets are of the conviction that they are a power above governments, and should dictate to governments. Their ideological stooges in many governments share this conviction. In April 2012 Joe Hockey, then opposition Treasury spokesman, gave a speech to the Thatcherite Institute for Economic Affairs in London, in which he endorsed the banks' dictating austerity for the nations of Europe: "In today's global financial system *it is the financial markets, both domestic and international, which impose fiscal discipline on countries*", Hockey said. "*Lenders have a more active role to play in policing public policy* and ensuring that countries do not exceed their capacity to service and repay debt."

Presently Egypt is consciously guarding against this danger with regards to its Second Suez Canal project, to avoid a repeat of the fight over control of the original Suez Canal. To ensure its sovereign control of the

The Egyptian government under Abdel Fattah al-Sisi financed construction of the new Second Suez Canal solely through loans from the Egyptian people.

project, the Egyptian government is funding it through loans exclusively from everyday Egyptian citizens. This is a win-win-win: the government puts the people's money to work on a project that creates jobs and improves their lives; the money and repayments stay in Egypt, boosting the domestic economy; and Egypt isn't obligated to the London and Wall Street elite or their agents in the International Monetary Fund (IMF) and World Bank.

Alexander Hamilton and the American System

Let us now turn to **a fourth way** of funding infrastructure, which doesn't actually belong on the list, because it is a revolutionary advance on the assumptions underpinning all three of the options discussed so far. They are all options within a monetary system; we will now discuss Alexander Hamilton's American System of Political Economy, which was an evolutionary leap forward, if you will, from a monetary system to a credit system. Hitherto I've used the term "money", but now we must think rigorously, so that we understand the concept of "credit".

A credit system differs fundamentally from any mere monetary system. Monetarism constantly looks backward to the past, with the aim of monetising the results of past production, rather than the creation of new wealth. A credit system, by contrast, operates on confident intentions for the future. Rather than depending on past production or stores of wealth, it creates wealth by tying the creation of credit to the future completion of projects and the production of goods and manufactures. Thus, rather than "money" being primary in an economy, a credit system emphasises the growth of the physical economy as primary. Credit is the vehicle by which that growth is achieved.

Hamilton's thinking during the American War of Independence and afterwards was influenced by a century of conflict between the American colonies and their imperial overlord, Great Britain, over control of their currencies. The British insisted that currency had to be specie—gold and silver coins. The argument was that only such specie currency would be "sound", but in truth it kept the colonies under tight control, suffocating their economies, as intended. Gold and silver mainly came by ship from Europe, so the natural daily economic activities of farming, hunting, and trapping for the purposes of trade were severely restricted by an insufficient supply of currency. Colonists had to resort to inefficient bartering, etc. Determined to develop, colonial leaders thought this issue through, and realised that although short of currency, they had plenty of wealth: fertile land and plentiful resources, and skilled farmers, fishermen and tradesmen to produce wealth. So what was money, but a medium of exchange for the wealth they already possessed, and not wealth in and of itself?

Part 2 of the 2014 EIR *World Land-Bridge* report (www.worldlandbridge.com), "Financing the Global Land-Bridge 2064", provides the history of the development of the American colonists' thinking on this issue over the 120-plus years from 1652, when Massachusetts minted its own coin, the pine-tree shilling, against the wishes of the Crown; to explicit proposals to establish colonial banks that could issue bills of credit, not metal coins, as the medium of exchange; to the common use of such bills of credit and the Crown's repeated crackdowns; and ultimately to the colonists declaring independence in 1776, an action provoked in no small part by this conflict over financial systems.

In 1795, Alexander Hamilton wrote the following definition and explanation of public credit, informed by the history of American thinking on this issue:

> Public credit ... is among the principal engines of useful enterprise and internal improvement. As a substitute for capital, it is little less useful than gold or silver, in agriculture, in commerce, in the manufacturing and mechanic arts. ...
>
> It is matter of daily experience in the most familiar pursuits. One man wishes to take up and cultivate a piece of land; he purchases

> upon *credit*, and, in time, pays the purchase money out of the produce of the soil improved by his labor. Another sets up in trade; in the credit founded upon a fair character, he seeks, and often finds, the means of becoming, at length, a wealthy merchant. A third commences business as manufacturer or mechanic, with skill, but without money. It is by credit that he is enabled to procure the tools, the materials, and even the subsistence of which he stands in need, until his industry has supplied him with capital; and, even then, he derives, from an established and increased credit, the means of extending his undertakings. (*Report on the Public Credit*, January 1795.)

Hamilton is saying that credit enables future production. Any individual can credit anyone's efforts, but Hamilton knew that no entity is better equipped to provide credit for future wealth than the government, which can back its credit with the resources of the entire nation.

This is the attitude with which he confronted the enormous challenges facing America after its victory in the War of Independence in 1783.

Making Liabilities into Assets

It was no small task. The new republic was so heavily in debt, that it was effectively bankrupt, and vulnerable to Britain's ongoing financial warfare. Thomas Jefferson and his allies had produced a first constitution which left the central government weak and powerless over the 13 states. In this period, the Bank of North America failed, because the national government was not strong enough to support the national bank. Hamilton was part of an opposing faction, including Benjamin Franklin, which organised a new constitutional convention that produced the U.S. Constitution that is still in effect, ostensibly, today. This constitution gave the federal government real power to direct a unified nation, as opposed to a jumble of states. George Washington was elected as the first President of the USA, and he chose Hamilton as his Secretary of the Treasury. They assumed office, and the new Congress commenced, in 1789.

Hamilton was determined that America should honour its war debts, which he called the price of liberty. But he knew that organising the government and the economy so that it was capable of paying the debt, would require institutions and policies and a focus on development that would set America up for a prosperous future. In 1781, he had made the amazing declaration to banker Robert Morris, who helped finance the revolution, "A national debt, if it is not excessive, will be to us a national blessing."

The USA in 1789 had $42.4 million in domestic debt, $11.7 million in foreign debt, and the 13 individual states had $21.5 million in debt among them. Hamilton's first act was counterintuitive: he *increased* the national debt, by taking the responsibility for paying the states' debts, onto the federal government. Such an action would be unthinkable to the unbalanced minds of today's monetarists, who are obsessed with debt and balanced budgets, but it was key to Hamilton's plan. He intended to make the U.S. government's pledge to honour that debt so watertight, that it turned this national liability into a national asset.

Here are the technical details of how Hamilton achieved this. He raised a new loan for the whole amount of the domestic and state debts combined, $63.9 million, *from the existing debt holders*. They were asked to turn in the debt certificates that recorded their claim against the government, for which they were given new debt certificates, but at a lower interest rate of 4 per cent, compared with the previous 6 per cent. In other words, Hamilton refinanced the debt on better terms, by rolling it over.

The reason this was an attractive proposition to the existing debt holders, was that Hamilton tied this new loan *directly to the means of paying it*. This was something of an obsession of Hamilton's. He called it a "fundamental maxim, in the system of public credit of the United States, that the creation of a debt should always be accompanied with the means of its extinguishment." In principle, this means that credit should be directed into productive endeavours which will create the wealth that can pay it back. Hamilton applied this principle by including, in the same 4 August 1790 Act of Congress that authorised his new rollover loan, provisions that allocated the government's tax revenue to paying back this new debt. Thus, when citizens exchanged their old debt certificates for the new ones, they knew that the repayments on that debt were the government's priority. Even at the lower interest rate of 4 per cent, the new debt was a better deal, because its repayment was assured, compared with the uncertainty of repayment on the old debt certificates, which most had held since the Revolutionary War.

In Hamilton's words, this action "restored the public credit". Americans had such confidence in the new debt certificates, that they became the basis for an increase in the currency supply, precisely as Hamilton had intended. Gold and silver were so scarce that the economy was suffocating, but debt holders could take their certificates to their banks to exchange for bills of credit that they could use as currency. There was no national currency, as of yet—the individual banks produced their own notes—but the government's IOU was as good as gold.

The National Bank

In keeping with his maxim that the debt must be tied to the means of repaying it, Hamilton intended to harness this expanded credit in the economy, so it could be directed into productive activity that would increase the nation's wealth. To achieve this, he established a national bank. Hamilton was experienced in national banking, because he had started one during the war, the Bank of North America, which had been crucial to the war effort. But in the six years between the end of the war and 1789, the weak central government was not able to maintain this bank, and it collapsed. With the advantage of a strong national government, Hamilton knew a national bank would succeed.

The First Bank of the United States, in Philadelphia.

The national bank, called the First Bank of the United States, started with $10 million in capital. Of this, the government paid $2 million in gold and silver to subscribe 20 per cent, and the balance of $8 million came from subscriptions from citizens. Hamilton's stroke of genius was to direct the expanded credit, in circulation in the form of the government debt IOUs, into this bank so that it could be further directed into specifically productive ventures. He achieved this by allowing the citizens who subscribed to the bank's start-up capital to use their existing debt certificates to pay three-quarters of their subscription. Thus, Hamilton recycled the original iron-clad pledge to honour America's debts, circulating as credit through the economy in the government IOUs, into $6 million of the $10 million capital of the new bank.

The First Bank of the United States commenced operations in 1791. It had sufficiently large capital, that the bank notes it issued became the new national currency. It loaned heavily to the Treasury to fund U.S. government operations, and to private borrowers in industry. In so doing, it didn't leave industry at the mercy of "the market" to meet its need for credit; the bank enabled the government to harness and direct credit into those areas. In his report to Congress at the end of that year, Hamilton was able to comment on the impact the national bank was already having, by directing public funds into resource development, manufacturing and commerce:

> [I]n a sound and settled state of the public funds, a man possessed of a sum in them, can embrace any scheme of business which offers, with as much confidence as if he were possessed of an equal sum in coin. … Industry, in general, seems to have been reanimated. … [T]here appears to be, in many parts of the Union, a command of capital, which, till lately, since the revolution at least, was unknown. (*Report on Manufactures*, December 1791.)

In his 1795 final report to Congress, Hamilton attacked the claims being made that the national bank's issuance of public credit was taking business away from the private banks—one of the arguments against national banking today—by pointing out that public credit complements private credit:

> If the individual capital of this country has become more adequate to its exigencies than formerly, it is because individuals have found new resources in the public credit—in the funds to which that has given value and activity. Let public credit be prostrated, and the deficiency will be greater than before. Public and private credit are closely allied, if not inseparable. There is perhaps no example of the one being in a flourishing, where the other was in a bad state. A shock to public credit would, therefore, not only take away the additional means which it has furnished, but, by the derangements, disorders, distrusts, and false principles, which it would engender and disseminate, would diminish the antecedent resources of private credit. (*Report on the Public Credit*, January 1795.)

This, then, was the public credit system that Alexander Hamilton invented. A government which thinks that money is wealth, and that such money is in finite supply, will always be subservient to those who control the supplies of money. But a government which understands that true wealth is the human

creativity and technology and production that ensures the future growth of the economy, is not bound to the existing supplies of money. It is not limited to obtaining existing funds of money—whether through taxes or borrowings—to fund infrastructure. The government can, through the agency of a national bank, issue credit against the future growth that the infrastructure will generate.

Hamilton's national bank operated until 1811, and then another one, the Second Bank of the United States, operated successfully from 1816 to 1836, when Wall Street killed it off. In the history of the USA and the world since, there have been periods when the American System was applied, with great success, but longer periods when it was suppressed by private financial interests hell-bent on dominating governments. Let's look at two U.S. presidents who successfully applied Hamilton's principles—Abraham Lincoln, and Franklin Roosevelt.

FIGURE 3

Original greenback, featuring Alexander Hamilton

Lincoln's Greenbacks

Abraham Lincoln was an advocate of Hamilton's American System of Political Economy throughout his life. In 1832, when he was a young man campaigning for the State Legislature in Illinois, he would introduce himself when campaigning with a beautifully succinct statement of the American System: "I presume you all know who I am. I am humble Abraham Lincoln. My politics are short and sweet, like the old woman's dance. I am in favour of a national bank, the internal improvement system, and a high protective tariff."

When he was president, during the Civil War, Lincoln revived Hamilton's system to fund both the war, and an economic development program that initiated the greatest burst of economic growth in world history, matched only by China's development in the last few decades.

At the time of Lincoln's election in 1861, America once again had no national currency. Individual banks issued their own individual notes as currency. One of the problems this led to was counterfeiting, which grew so serious that pamphlets had to be circulated on how to differentiate the genuine notes from forgeries. Not to be deterred, the counterfeiters simply counterfeited the pamphlets, too. In short, it was a mess.

At the end of 1861, following the eruption of the Civil War, Wall Street ganged up with British and French lenders to deny funds to the U.S. government. This was a demonstration of Wall Street's relationship with the City of London, under the control of which the British had allied with the South. There is a parallel between this financial blockade of Lincoln's government, and the West's economic sanctions on Russia today. Incidentally, Russia supported Lincoln in the Civil War. The banks had miscalculated against Lincoln, however, being perhaps not fully aware of how conversant he was with Hamiltonian national banking. He simply took control of the currency, by issuing U.S. Treasury notes to be a circulating medium; not backed by any gold or silver, as convention demanded, these were called greenbacks after the colour of the paper on which they were printed **(Fig. 3)**.

The new currency was incredibly successful. All up, Lincoln's Treasury issued $460 million in greenbacks during the war, to fund a 300 per cent increase in government spending. The Treasury between 1862 and 1864 issued $500 million worth of 20-year bonds to fund the greenbacks. Very importantly, to ensure that banks and speculators would not be able to manipulate the currency that these bonds underpinned, the bonds were not tradeable. Lincoln also re-chartered state banks as national banks, to provide a network of financial institutions through which the government could direct credit.

Aside from financing the war, greenbacks also funded the commencement of the transcontinental railroads, which opened up the interior to population and development, and drove such rapid economic growth that within a few decades the USA was the strongest and largest economy in the world. Alas, the assassination of Lincoln in 1865 took out a leading intellect of Hamilton's American System economics, and the Wall Street bankers reasserted control. Lincoln's successors in the presidency systematically reduced the circulation of greenbacks, until finally, in 1879, the currency was again chained to gold and silver.

U.S. President Franklin D. Roosevelt signs the *Glass-Steagall Act* into law, 16 June 1933. Flanking Roosevelt are Senator Carter Glass (white suit) and Representative Henry B. Steagall.

Roosevelt, Glass-Steagall and the Reconstruction Finance Corporation

Finally, let's look at how Franklin Roosevelt revived Hamiltonian banking to fund infrastructure projects in the Great Depression.

Following the October 1929 stock market crash, American banks started crashing in their thousands. President Hoover was captive to the Wall Street interests whose fraudulent gambling had caused the crash, so his response to the crisis was to try to bail out their banks, ahead of the millions of people whose lives were being ruined. He established a credit institution with the impressive name of Reconstruction Finance Corporation (RFC), not to fund reconstruction projects to create jobs, as the name implied, but to bail out banks. It failed miserably.

It wasn't until Franklin Roosevelt was elected in November 1932, that there was any intention to use the power of the government and public credit to address the crisis. The first signs of that intention came in the form of the Pecora Commission hearings, in the ten days before Roosevelt's inauguration in March 1933. A stubborn senator from Nebraska with a farming constituency chaired a committee that oversaw financial practices, but hadn't achieved anything of note. In the lame duck months between Roosevelt's election and inauguration, the senator was tempted to wind up the committee, but he persisted, and appointed a New York prosecutor of Sicilian heritage, Ferdinand Pecora, as counsel for his committee. Often determined individuals can turn the course of history, and Pecora was such a person. Not a banker, he applied his lawyer's mind to the financial evidence in front of him, which allowed him to see criminality where people trained in banking saw standard practices.

Pecora used his ten days of hearings to put Wall Street on trial, and ripped the mask of respectability off the leading bankers of the day—none more so than the President of National City Bank, Charles E. Mitchell, known as Sunshine Charlie for his Midas touch. This is a man who was at the pinnacle of financial power, on the boards of the top national and international companies, including, significantly, the American subsidiary of German chemical giant IG Farben, through which he was involved in consolidating the Bank for International Settlements as the central power over the world financial system to this day. (IG Farben, by the way, later used slave labour at Auschwitz for its production.) Under questioning by Pecora, Mitchell exposed himself as a stock swindler, tax evader and fraudster, and went to jail. Other leading bankers were also exposed and humiliated, including J.P. Morgan Jr. In hearings broadcast on radio to an eager population, Pecora exposed the links between Wall Street and Congress, sending Congressmen to duck for cover.

The proceedings were followed closely by Franklin Roosevelt, who recognised that Pecora's revelations had Wall Street on the ropes, and so provided a rare opportunity for him to push through policies to rein in the private banking powers. Roosevelt changed his famous inauguration speech at the last moment, to add, following "the only thing we have to fear is fear itself", the line, "Practices of the unscrupulous money changers stand indicted in the court of public opinion, rejected by the hearts and minds of men. ... The money changers have fled from their high seats in the temple of our civilization. We may now restore that temple to the ancient truths. The measure of the restoration lies in the extent to which we apply social values more noble than mere monetary profit."

Franklin Roosevelt, in the first 100 days following his inauguration in 1933, enacted sweeping reforms that did not fully revive the Hamiltonian credit system, but got very close to it. One of these laws was the *Glass-Steagall Act* **(page 70)**, which completely separated the commercial banks that serviced the real economy, from all forms of speculative investment banking. Glass-Steagall also set up the Federal Deposit Insurance Corporation (FDIC), to give government protection to the commercial banks. This separation ensured a functional credit system: the savings that workers put in their banks were only for normal lending to the home buyers, farmers, and businessmen of the real economy. This kept the credit circulating

through the real economy. The FDIC insurance actually enabled the commercial banks to hold less capital in reserve, and thus increased the credit they could extend. As is well known, for the 66 years this law was in place, America had no major banking crises.

Another Roosevelt initiative was the Securities and Exchange Commission (SEC). This was in the same spirit as Glass-Steagall: to protect those who want to invest their money, rather than just keep it in the bank, from the predations of speculators, by putting a guard dog on the financial markets. This way, even investment bankers would have an incentive to find secure investment opportunities in the real economy that could actually help the country.

Roosevelt was not able to achieve his policy of creating national credit banks for industry, which got blocked in Congress as Wall Street fought back, but he did the next best thing. He took Hoover's agency for bailing out bankers, the RFC, and put it to use funnelling public credit into the physical economy. Roosevelt knew that Congress would block funding for many of the infrastructure projects he intended to build to put people to work, but the RFC did not depend on Congress for funding approval, so Roosevelt funded his projects through the RFC. Initially authorised to lend $2 billion in 1933-34, the RFC by 1955 ended up lending $50 billion, all of which was repaid. It expanded its operations by borrowing from the Treasury, and by reissuing all of the repaid loans and interest as new credit.

LaRouche PAC's 2012 report *NAWAPA XXI* describes the scale of the RFC's operations:

> Its major operations were in reversing the mortgage meltdown, helping 20% of mortgaged urban houses and refinancing 20% of all farm mortgages; restoring food and energy commodity production; lending to industrial businesses for expansion; recovering exports and trade, financing export of American capital; and later, investing in the war-mobilization. The RFC achieved all of this by creating public corporations, banks, and associations, set up by the RFC, whose stock it owned, to lend to other sectors of the economy. ...
>
> Congress amended the RFC act, allowing it to lend to industry, and agricultural and municipal districts. Institutions which were designed to foster and direct public works, such as the Civil Works Administration (CWA), and its successor, the Public Works Administration (PWA), received limited shares of the federal budget. However, the RFC then acted as the institution of public credit for these limited federal programs, by loaning a total of $2 billion to these institutions to build the infrastructure projects that would be needed to raise the productivity of the nation.
>
> Loans from the RFC to the Federal Emergency Relief Administration (FERA) and the PWA employed 3.1 million people a year, not including the multiplier effects. It also funded levee and irrigation districts for water management and flood control, school districts, aqueducts, bridges, waterworks, highways, housing developments, hospitals, schools, and more. Most of the loans were termed 5-20 years, all of which were paid back.
>
> The Rural Electrification Administration (REA), was created through RFC, financing 80% of the 20-year loans which farmers would take out from local REA districts at 3% interest. The REA received $40 million a year for ten years, and increased electrification by 400% between 1935 and 1939, at least tripling the productivity of now 40% of American farms with electricity. By 1955, when the full effect of the REA and New Deal projects came on line, through such projects as the TVA, the Bonneville Dam, Grand Coulee Dam, and the Hoover Dam, this number rose to 88% of farms.

Conclusion

The three instances of Hamiltonian public credit we have looked at were all applied during times of crisis, with great success. A crisis should not be a prerequisite for resorting to public credit, but it often happens that way, because that is when the opponents of public credit, the private banking interests, are usually most discredited in the eyes of the public, and therefore politically weak.

We are now in another time of crisis. The world is plunging into an economic breakdown crisis that will destroy the power of the City of London and Wall Street and the economic consensus they have enforced on the world through the IMF and World Bank. In the face of this threat, the Anglo-American powers are going for war.

There can be no solution to this crisis, unless nations break with the monetarism that is the cause of the economic breakdown, and adopt the Hamiltonian principles of public credit instead.

The issue with public credit is less the mechanisms used, and more the intention for which it is used. There are Hamiltonian overtones in the intention of the BRICS nations (Brazil, Russia, India, China and South Africa) to create international credit institutions to finance economic development. Next, Craig Isherwood will cover the history of how the Commonwealth Bank was a Hamiltonian institution, used to develop Australia. When credit is harnessed by governments, and directed into development, it gives value to the future economic growth which supports us all, and is therefore the source of true wealth.

The Australian Precedents for a Hamiltonian Credit System

Craig Isherwood
CEC National Secretary

Few countries in the world have established a true Hamiltonian national bank. The first, of course, was the United States under Treasury Secretary Alexander Hamilton; a second was our Commonwealth Bank, brought into being through the early Australian Labor Party by the colourful, very determined and tirelessly working former American immigrant and federal politician King O'Malley (1854-1953).

The Commonwealth Bank of Australia functioned as a government-owned national bank, and was used as a vital tool for the Labor Government of the time, in 1912-23, to develop our country, and then later in WWII. As a national bank, it scared the hell out of the City of London and the Crown!

On 20 January 1913, when the Commonwealth Bank first opened for business, the bank's first governor Denison Miller proclaimed, "This bank is being started without capital, as none is required at the present time, but it is backed by the entire wealth and credit of the whole of Australia."

Those words, "backed by the entire wealth and credit of the whole of Australia", became almost a creed or charter of the Commonwealth Bank, for Miller. This was the power behind the Commonwealth Bank: a power the government could use to protect and develop the nation, and to protect the nation and its citizens against the ravages of the private banks.

At a big bankers' dinner in London in the 1920s, former New South Wales Premier Jack Lang reported in his 1962 book *The Great Bust*, Miller reaffirmed this creed, causing a great fright amongst the bankers.

Craig Isherwood addresses the CEC's international conference, 28 March 2015.

At this dinner, he calmly told them that the wealth of Australia represented six times the amount that had been borrowed, and that the Bank could meet every demand because it had the entire capital of the country behind it.

This was in stark opposition to the prevailing British ideas on banking.

In 1852 British Chancellor of the Exchequer and future Prime Minister William Gladstone had recounted his experience with the City of London: "The hinge of the whole situation was this: the government itself was not to be a substantive power in matters of Finance, but was to leave the Money Power supreme and unquestioned."

This is no different to the idea expressed by Treasurer Joe Hockey to the Federal Parliament a year or so before the global financial crisis. He stated emphatically: "If there have been any lessons learnt, Mr Speaker, over the last 30 years in Australia, it is that government should not be involved in banking."

The original Commonwealth Bank was created in order to provide the mechanism to develop our national basic economic infrastructure, but also as a way of protecting workers' money from the ravages of the private banking system—especially after the 1893 Great Bank Crash. At one point during that crash, only nine of the 22 banks of the time in New South Wales remained open; depositors in those

Denison Miller

The Commonwealth Bank, Martin Place, Sydney.

banks lost millions of pounds sterling. When they closed their doors, just seven of those larger banks owed their depositors £76 million. That was compared to the GDP of NSW, at the time, of £56.9 million.

The 1890s depression and following bank crashes destroyed the illusion of the infallibility of the banking institutions, and in 1891 led to the formation of the NSW Labor party (Labor Electoral League). Later that year in the NSW elections, no fewer than 35 Labor members were returned in the NSW Parliament of 141 seats, out of the 52 who ran on the Labor Party ticket. These new Labor members were elected as the immediate effect of the discontent caused by that depression.

The workers who supported the Labor Party wanted a bank to protect them from the ravages they had just witnessed from the private banks.

At the first Annual Conference of the Australian Labor Party in 1893, the ALP adopted a fighting platform, within which its sixth point was: "Establishment of a National Bank—to secure State control of currency and transact all ordinary banking business." This last point was to remain in the fighting platform *for more than sixty years*.

King O'Malley

After federation came in 1901, banking, and specifically national banking, was still high on the list of goals for the Labor Party. Under the newly adopted Australian Constitution, the new Commonwealth Government was given all the control over banking—except state banking.

The chief advocate of a national bank, namely the Commonwealth Bank, was King O'Malley. He was an American with a very colourful personality, but who also had a deep knowledge of banking from working with his uncle's small New York bank.[1]

In 1908, O'Malley convinced the federal Labor Party conference held in Brisbane to adopt a detailed national banking proposal in its fighting platform. King O'Malley moved a large number of resolutions, setting out the plan for his bank in full details. The bank was to have the *power to issue bank notes*, which would be legal tender. It was to be responsible for all government banking. It was also to have the power to grant advances to government and the local governing bodies. There was to be a board, comprising the chairman elected by the Commonwealth Government, and one director nominated by each state. It was to be a reserve bank, holding reserve funds of the private banks. The Commonwealth treasurer was to have the right to attend all meetings of the board. The bank was to sell government bonds. The General

King O'Malley

Post Office in each capital would be the head office of the bank in that state, and any post office within the Commonwealth carrying on the business of a money-order office might be constituted a branch of the bank.

On 30 September 1909, in a five-hour speech in Federal Parliament, O'Malley emphasised the importance of a national bank for Australia's sovereignty:

> We are legislating for the countless multitudes of future generations, who may either bless or curse us. … We are in favour of protecting, not only the manufacturer, but also the man who works for him. ... I propose the institution of a government national bank for managing the finances of the Commonwealth and the States. … Cannot honourable members see how important it is that we should have a national banking system …—a system that will put us beyond the possibility of going as beggars to the shareholders of private banking corporations?... The movement of the money volume is the vital monetary problem—the master-key to the financial situation. Through the control of this movement prices may be made to rise or fall or remain substantially steady. … Such power is an attribute of sovereignty … and ought to belong to none but the sovereign people exercised through … Parliament and Government in the interests of the whole people.

O'Malley triumphantly proclaimed the precedent for his proposed new national bank. "I am the Hamilton of Australia", he declared. "He was the greatest financial man who ever walked this earth, and his plans have never been improved upon. … The American experience should determine us to establish a national banking system which cannot be attacked."

When the federal Labor Party won the election in 1910, O'Malley expected to be the treasurer. But his

1. Robert Barwick, "A Credit System for Australia: King O'Malley and Australia's National Bank", a presentation at the May 2013 conference of the CEC, is posted at www.cecaust.com.au/credit/.

fellow Labor Party members preferred to listen to the private bankers, and Prime Minister Andrew Fisher always preferred not to upset the private banks. Instead, O'Malley was made minister for home affairs, and, as it turned out, that gave us Canberra on the Washington, District of Columbia, USA plan. Fisher made himself treasurer and prime minister, no doubt to counter O'Malley's unorthodox methods.

At this point, the private banks stepped up their organising against the idea of a Commonwealth Bank, by wooing Fisher and Deputy Prime Minister Billy Hughes at private functions. They told them that there was *no profit in banking.* They persuaded Fisher and Hughes to give up the Commonwealth Bank idea.

To force the ALP caucus to implement their own national banking policy, O'Malley formed what he called the "Torpedo Brigade" among Labor MPs, which for eleven months secretly conspired to force a resolution through the Labor caucus, instructing Fisher to establish the Commonwealth Bank.

Fisher had to relent, and introduced into Parliament the Commonwealth Bank Bill, drafted by the Treasury, not O'Malley, on 1 November 1911. The bill made *no provision for the Commonwealth Bank to issue its own printed notes*, and O'Malley believed the bank would be vulnerable without that power. After eight weeks of debate, eventually on 22 December 1911, the *Commonwealth Bank Act* became law. In June 1912, Denison Miller, a prominent official of the Bank of New South Wales, resigned his position and was appointed governor of the Commonwealth Bank.

Miller himself was ambitious, and once he left the Bank of NSW, he had determined to fight for "his bank", to make it one of the greatest financial institutions in the country—and for the 11 short years until his untimely death, he succeeded in doing so. Six weeks after accepting the position, on 15 July 1912, with a small advance from the Commonwealth Treasury of £10,000, the Commonwealth Bank commenced savings-bank operations from a branch in Collins St, Melbourne, and through 489 agencies in money-order post offices throughout Victoria. By January 1913 he had opened a bank in each state of the Commonwealth, and also an agency in London, and had established the head office of the bank in Sydney.

Although Miller was authorised to raise £2 million through long-term bonds or debts to start the bank, he chose instead to open savings banks throughout Australia, at post offices and elsewhere, and use the money (deposits) obtained this way as capital, thus only being indebted and paying interest to his depositors.

Later that year, 1913, the Commonwealth Bank gave one of the first demonstrations that it was going to act like a national bank, when the Melbourne Board of Works went into the market to redeem old loans, and also raise new money. Governments at that time were heavily reliant on overseas loans from London. The Victorians got their quote from London. In addition to stiff underwriting charges, the best they could do was £1 million at 4½ per cent interest. They then decided to approach Denison Miller, who had promised to provide special loans for government bodies. He immediately offered them £3 million at 4 per cent interest. When asked where the very juvenile bank had raised all the money from, Miller replied, "On the credit of the nation. It is unlimited."

Over the next ten years, the Commonwealth Bank functioned as a national bank, albeit through standard banking activities, and without the power of the note issue, which I will discuss later.

Funding World War I

In August 1914, World War I broke out in Europe. Major economic problems were experienced at the outset of the war. There was widespread concern about the future of Australia's all-important overseas trade and her access to British capital. For a short time, this aroused acute fears, such that there were some temporary suspensions of stock exchange operations and foreign exchange dealings. Several savings banks experienced mild runs on their deposits. Some of the trading banks also suffered minor difficulties. They still had memories of 1893 and the Great Bank Crash.

Denison Miller stepped in, saying that the Commonwealth Bank, on behalf of the Commonwealth, would support any bank in difficulty. In fact, he had already issued the order at the Commonwealth Bank to put on more tellers, obviously to demonstrate that there was nothing to fear. That was the end to any panic.

At this point there was a double dissolution federal election, and Fisher was brought into power again, with Billy Hughes. Miller, as head of the Commonwealth Bank, was now in control of financing the war, at the request of Fisher and his government.

In order to meet the immediate financial needs of the Fisher war Government and its Treasury, Miller took the bold move of giving the government an overdraft of £230,000. The Army wanted money to buy horses to equip the Light Horse Brigade. Miller found it without any objection or reluctance. Given that it was being funded from deposits, he also made sure that wherever the troops went, there was an agency of the Commonwealth Bank, and he handed out passbooks to all the troops. Their surplus pay went into the Commonwealth Bank!

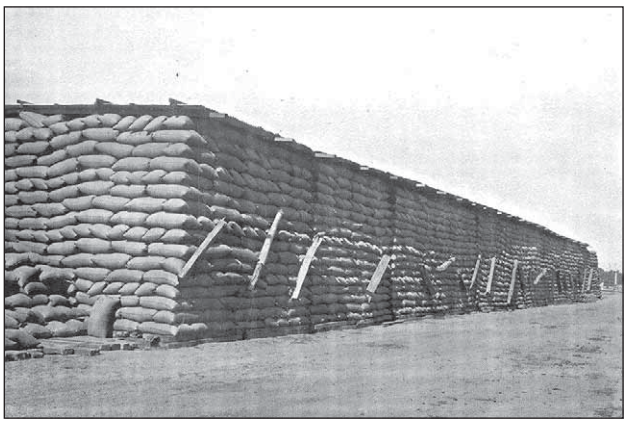
In 1915 the Fisher Government launched its first war loan and gave the Commonwealth Bank the

responsibility to handle it. According to Jack Lang again, "Instead of the old semi-secret methods of borrowing money, Denison Miller conducted his War Loan campaigns with ballyhoo. There were rallies in Martin Place with brass bands, actresses, V.C. heroes and politician speakers. The money came flowing in."

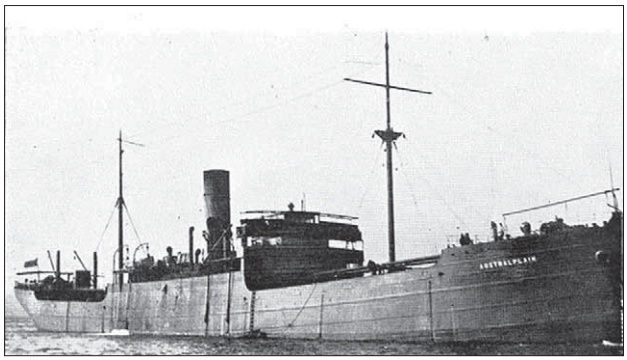
The Commonwealth Bank coordinated with the private banks the flotation of seven war loans, and three peace loans, totalling £250 million of loans with the support of all the private banks, for a charge of 5/7- per £100 (28c per $100). Traditional loans floated in London cost the equivalent of $3 for every $100 raised. The Commonwealth Bank saved Australians some £6 million in bank charges, alone. All of these loans were oversubscribed, by 834,000 people. With the assets of the nation behind the Commonwealth Bank, it was able to take idle credit from the general population in the form of these loans, and use that credit to defend the nation. All of the loans were paid back to the subscribers by 15 December 1930, with interest rates from 4½ per cent to 6 per cent. The services that the Commonwealth Bank rendered to the people of the Commonwealth were immense.

Saving and Developing the Primary Producer

The Commonwealth Bank saved the Australian primary producer from stark ruin during the war years by financing, with and without the assistance of the private banks, pools of wheat, wool, meat, butter, cheese, rabbits, sugar, jam and fruit, to a staggering total of £457.5 million.



Pooled wheat stack at Ganmain, New South Wales.



The *Australplain*, one of the 15 ships purchased in London by W. M. Hughes on behalf of Australia.

Launching the 1918 seventh war loan with great ceremony outside the Commonwealth Bank in Martin Place.

The war interrupted the normal overseas commodity transportation and payment arrangements. Rural producers were faced with chaos unless a coordinated market effort were made. This led to the establishment of a number of commodity pools, including the 1915-16 wheat pool to handle the biggest wheat crop on record at that time. The farmers were immediately paid the basic war-time price, with further payments made when produce was sold at higher than the basic price. After the first wheat pool, the Commonwealth Bank assumed general control for all commodities taken over by the government. It allocated business to certain private banks. Through its London branch, it coordinated collection of payments for produce exported, and distributed the funds to the various banks involved.

Establishment of the Commonwealth Steamship Lines

One of the most dramatic illustrations of the power of the young Commonwealth Bank came in 1916. Billy Hughes was in London, and the government was having trouble with overseas British shipping interests. Australia, as an island nation, was beholden to British shipping interests. Once war broke out, the shipping companies raised their prices from 47/6 or $4.75 to 105/- or $10.50, despite the fact that the imperial government took the war risk on the vessels. Appeals to the British-run shipping companies had no effect. One account of how bad the freight costs got was cited in Parliament: "While the value of the cargo (maize) was £18,826 ($37,652) the cost of the freight was £50,433 or 260 % higher than the value of the cargo."[2]

It was the Fisher/Hughes Government's policy, from the 1914 election, to combat the exploitation of people through high freight and fares, by establishing the Commonwealth Line of Steamers. Whilst Hughes was in London he discovered a fleet of 15 cargo vessels for sale. He acted upon his own, secretly, and bought these

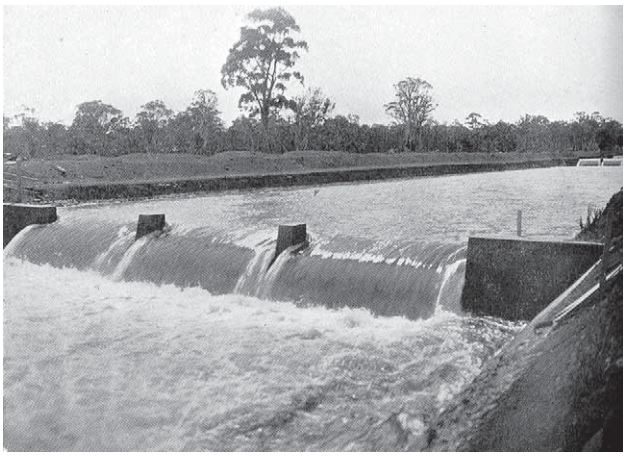
2. Hansard, Vol. 88, p. 11098.

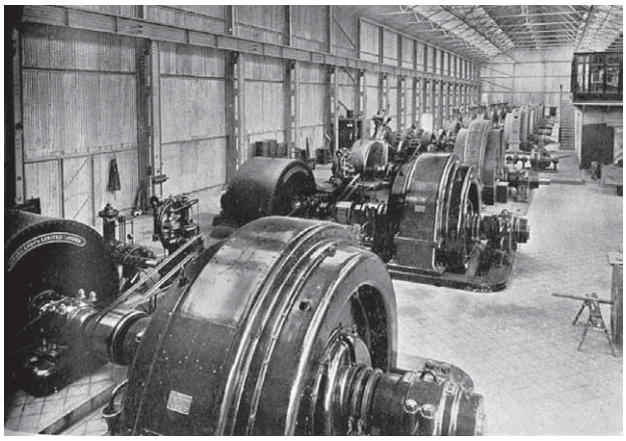
ships. He had a very short time to clinch the deal, as the established shipping combine would have shut the deal down. Hughes wired Treasurer W. G. Higgs, "Make available in London tomorrow morning at 10am, £2 million." Higgs called Miller, and Miller wired the Commonwealth Bank in London to have the money ready by morning. As stated later, the intention was to use the profits from the freight of Australian produce to pay off the overdraft that Miller had set up to buy this initial fleet of ships. The fleet was expanded to over 36 ships, with the augmentation of surrendered enemy ships, and the cost of freight to Australian producers was reduced to half that of the British-controlled shipping lines, at around £3 per ton. The profits from the shipping line went back to government to pay off the overdraft.

Commonwealth Bank Runs Papua New Guinea

The Commonwealth Bank was given some unusual assignments. For example, shortly after the war started, on 6 August 1914, instructions came for Australia to take Papua New Guinea from the Germans. On 11 September, 1,500 officers and men captured a wireless station at Rabaul. After some further fighting, the German governor surrendered; he was a long way from home.

The Commonwealth Bank established a bank that began to trade in German reichsmarks, as it enabled the military authorities to exercise control of trade by enemy subjects there. Whilst trade to Germany was cut off, of course, the local economy was maintained internally. The only currency among Europeans in the territory was the German mark; notes and silver marks were the regular means of exchange, and the Australian troops were paid in marks. Savings passbooks were kept in marks. The administration in PNG found that by continuing to use the German currency, the expense and trouble of obtaining coinage from Australia could be avoided. Also, the first shipment of Australian gold sovereign coins, amounting to £5,000, literally disappeared within two days. Apparently the Chinese living there paid a premium four marks for every pound, and then on-shipped the gold coins to China, where they were sold for a profit.





The Commonwealth Bank granted loans to more than 60 local councils for important development works like building hydro-electric dams, building canals (top) and providing the generators (bottom) for reliable power generation and the electrification of industries in their municipalities.

Payment of Troops

During the war, the Commonwealth Bank enabled Australia to transfer abroad, with maximum efficiency and the minimum of expense, some £3.56 million for the payment of 330,000 of her soldiers serving overseas, of whom more than 60,000 lost their lives and 165,000 came back wounded or invalided. It also established Commonwealth Bank savings agencies everywhere the soldiers were, and provided them with their own Commonwealth Bank passbooks.

Homes for Returned Soldiers

For five or more years, Australia had an enormous number of able-bodied workers engaged in the war effort overseas, and when they returned there was a shortage of houses. To deal with this, the Commonwealth Bank built 1,777 houses at a cost of £1,155,119 and purchased another 5,179 houses on behalf of soldiers at a cost of £2,874,502. Loans were advanced by the Commonwealth Bank at 5 per cent, fixed for 22 years in the case of weather-board homes, and 37 years in the case of brick homes.

Support for Local Councils

The Commonwealth Bank was also to become the natural bank for local councils. Its policy was, "Primary products are the main source of Australia's wealth, and the Bank, realising that to ensure the proper development of the country assistance must be given to those who are winning wealth from the soil, has sympathetically considered applications from local governing bodies for loans to improve the conditions of the primary producer. … [T]he Bank has granted loans to sixty councils in country districts to assist in developments and improvements."[3]

This development included electrification, providing reliable electric current for the establishment of butter

3. C.C. Faulkner, *The Commonwealth Bank of Australia*, p. 250.

factories, flour mills, saw mills and similar industries dealing with local products.

All of this activity was performed by the Commonwealth Bank, acting as a national bank in the interests of the general welfare. **Fig. 1** is a table from C. C. Faulkner's book *The Commonwealth Bank of Australia*, showing Commonwealth Bank lending to local councils as at June 1923.

FIGURE 1

Purpose.	Loans to June 30th, 1923.
Permanent Improvements (Road Construction, Bridges, Drainage, etc.)	£2,830,000
Gas and Electric Light	1,260,000
Tramways	400,000
Council Chambers, Town Halls, etc.	280,000
Sanitary Purposes	360,000
Harbour Improvements	800,000
Repayment of Loans	2,700,000
Miscellaneous	730,000
Total	£9,360,000

In a 1921 interview Miller was asked if he, through the Commonwealth Bank, had financed Australia during the war for £350 million. He replied, "Such was the case; and I could have financed the country for a further like sum had the war continued".[4] Again, asked if that amount were available for productive purposes in peace time, he answered in the affirmative.

All of this support was done without the important note issue function, which O'Malley had demanded. It was not until 1920 that the Commonwealth Bank was given the note issue power, but only, again, to protect the private bankers.

The Trans-Australian Railway and Fisher's Note Issue, 1910

At this point I want to step back to 1910, before the Commonwealth Bank was founded, to explain why King O'Malley regarded the control of the note issue as so important. The ability of the Australian government Treasury to print notes is the clearest example of real national credit creation, using the sovereign power of government.

Back in 1910, with the population still distrustful of the private banking system, largely owing to the crash of 1893, Fisher passed the *Australian Bank Notes Act*, giving the Commonwealth treasurer sole power to issue Australian notes, which were "payable in gold coin on demand at the Commonwealth Treasury which was in Melbourne".

According to historian and author David Day, "Fisher was Prime Minister at a time when people were still conflicted about their identity. And Fisher was saying to them, 'you have an Australian identity and that's the identity you need to embrace'. Fisher created a psychological sense about being Australian—with the Commonwealth of Australia banknotes, the postage and the Coat of Arms. The banknotes epitomised his sense of Australian attitude to the core."[5]

At the same time, the Commonwealth government passed a *Bank Notes Tax Act,* imposing a 10 per cent tax on all bank notes that had been issued by private banks and not redeemed. That meant that the old pound sterling notes, issued by the private banks, immediately lost 10 per cent of their value. They were very quickly returned, so that the new notes were legal tender.

The *Australian Bank Notes Act* of 1910, amended in 1911, also mandated that the treasurer was required only to hold, in gold coin, an amount not less than 25 per cent of the total amount of Australian notes issued.

I think that today there is common confusion, in the belief that the Commonwealth Bank financed the Trans-Australian Railway. (The Trans-Australian Railway was the long railway, which was to be built to link up to the existing railway system, joining Kalgoorlie in the west to Port Augusta in South Australia. It made up the trans-Continental Railway **(Fig. 2)**.) This is not correct. Whilst the Commonwealth Bank provided the banking facilities for the railway and established branches for the workers right along the railway as it was being built, the Trans-Australian Railway was in fact paid for by the profits made by the government from its Australian note issue.

The building of the Trans-Australian Railway was a promise made to entice Western Australians to join the Federation. It was to be their link to the eastern states, from the west.

At a 1905 Labor Party conference in Melbourne, O'Malley called for support for a continent-spanning railway; but he said that it should run up through central Australia to Darwin, for, "It was to be in the interests of developing Central Australia".

When Labor was swept into power in 1910, and O'Malley became the minister for home affairs, building this railway (but not up to Darwin) became his portfolio. In Parliament he said: "[E]xamine the map on the wall. See that the territory which this gigantic national enterprise will traverse, linking up the east and the west with bands of steel and lightning-like express trains, constitutes the precise territorial strength of the whole Commonwealth." The first sod of earth was turned by the governor-general at Port Augusta in South Australia in September 1912,

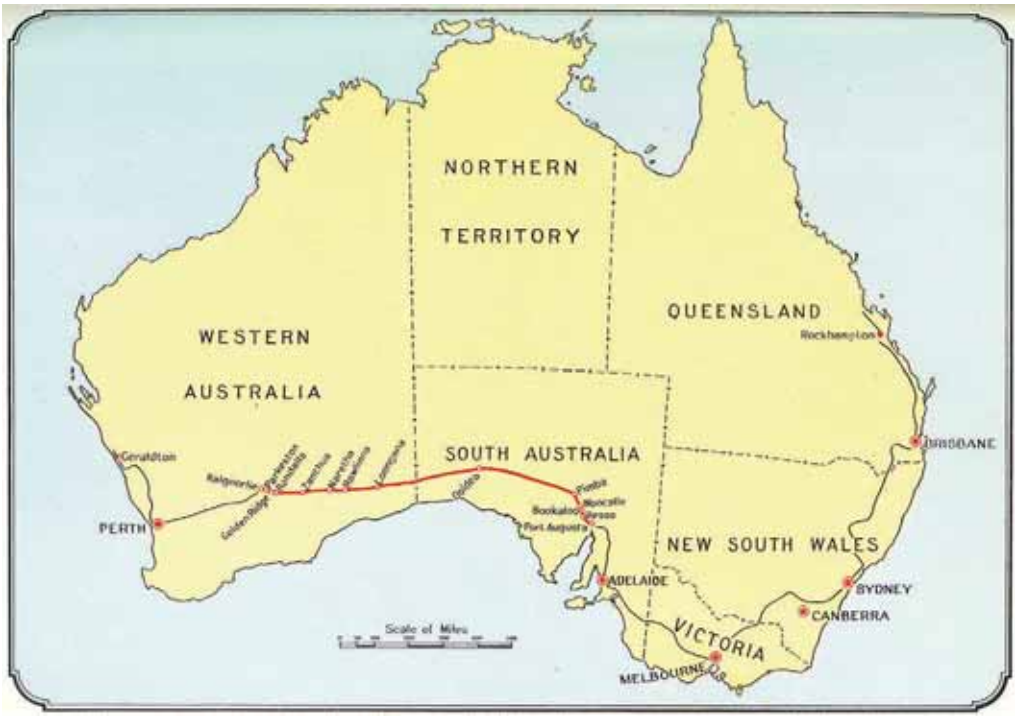
4. L.C. Jauncey, *Australia's Government Bank*, p. 275. See also Treasurer Percy Spender's speech in Hansard, Vol. 161, p. 976-7.

5. www.coinworks.com.au/Interview-with-David-Day-award-winning-historian

just three months after the Commonwealth Bank was established in Melbourne.

Progress was slow for the first twelve months, but O'Malley imported two huge track layers from Chicago to speed things up. These track layers were preceded on the job by an Australian-developed steam shovel, so some of the latest technology was being employed here. It took just over five years and £7 million to build the Trans-Australian Railway.

FIGURE 2



The Trans-Australian Railway was built by King O'Malley from Kalgoorlie in Western Australia to Port Augusta in South Australia, with extensions westward and eastward to the coasts. It took five years and £7 million to build.

How was it paid for? Between the years of 1914 and 1920, the government increased the note issue by approximately £50 million, and these notes were put into circulation in various ways:

(a) Some were given to the banks in exchange for gold;

(b) Some were lent at interest to state governments;

(c) Some were placed on fixed deposit with various banks at different rates of interest;

(d) More than half the notes were invested in interest-bearing securities.

The last two items, (c) and (d), represented the Australian Notes Account at the Treasury.

The money for the Commonwealth's Trans-Australian Railway was paid in the following manner:

(1) From revenue (taxation)	£1,205,651
(2) From "profits" on the Australian Notes Account	£3,428,519
(3) From sale of some of the securities held by the Australian Notes Account	£2,335,372
	£6,969,542[6]

According to the Commonwealth Year Books, the amounts of (2) and (3) were treated as loans from the Australian Notes Account to the Commonwealth Railways for building the Trans-Australian Railway, but in reality this was just a transfer of funds from one government department to another. If it were not for the increase in the note issue, there would have been no money to transfer.

Therefore, as you can see, most of the money used to pay for the construction of the railway was obtained by printing notes, and none of it involved the people of Australia in debt or interest, directly. The government literally created this credit.

By 1920, the true power of issuing credit through the note issue was obviously noted by the private banks, and it had also become evident that the Australian notes were likely to remain the principal form of currency. The private banking cartels sought to regain control over them.

With the power of the Commonwealth to create credit for the nation through the note issue, the private banks always feared that if the Australian note issue remained under the political control of the Treasury, then the government might use it to solve problems of the nation. The private banks feared that there would be too much power in the treasurer (or the government), to issue legal-tender money.

In 1920 the Billy Hughes Nationalist Government passed the *Commonwealth Bank Act* of 1920, which repealed the 1910 *Australian Bank Notes Act*, but at the same time transferred control of the note issue from the Treasury to the Commonwealth Bank. It also provided that "there shall be a Note Issue Department of the Bank which shall be kept distinct from all other departments of the Bank." The Note

6. Hansard, Vol. 129, p. 1930.

Issue Department was to be placed under a board, and not just under the control of one man like Denison Miller. The Note Issue Board consisted of the governor of the Bank (Miller) and three members appointed by the governor-general, including a representative of the Treasury.

Even though the new Note Issue Department paid the Commonwealth nearly £3 million from its note issue in December 1920-June 1923, the Note Issue Board was regarded as being disconnected from the rest of the Bank, and this became the excuse for another change. In 1924, the Bruce-Page Government brought in an amendment of the *Commonwealth Bank Act*, to place the bank under the control of a directorate made up principally of financial magnates associated with the private bankers, and other acolytes.

First meeting of the Australian Notes Board on 17 December 1920. Denison Miller is seated in the centre, as its chairman.

From the date of the appointment of this directorate, the Commonwealth Bank ceased to function as the people's bank, or a valuable asset to the government. It became a bankers' bank, run for their special benefit, until its revival in the World War II years under John Curtin and Ben Chifley. None of the great undertakings I listed before were taken on by the bank for many years.

Later, in the late 1920s and early 1930s, the second Great Depression hit. Labor Federal Treasurer Ted Theodore, at that point, proposed exactly what the private bankers feared: that the Commonwealth Bank make a special fiduciary notes issue of £18 million. The issue was to be done through the Commonwealth Bank, not backed or constrained by gold, to provide immediate aid to the wheat growers and work for the unemployed, by funding desperately needed public works programs. It was to stimulate demand, and reverse the deflation of the depression years. The economy was deflating from lack of credit.

The proposal was rejected by the chairman of the Commonwealth Bank Board, Sir Robert Gibson, who had replaced Denison Miller upon his death in 1923. Gibson denounced the move as inflationary—which, of course, it was. In a deflationary spiral, you need to create demand, i.e., some inflation.

This mean-spirited, London-directed policy was responsible for crippling unemployment of up to 30 per cent, and the destruction wrought by the Great Depression of the 1930 years. It was totally unnecessary!

He Who Owns the Gold Makes the Rules

It was not until World War II that things changed dramatically. Jack Lang wrote in *The Great Bust*:

> Wars do not collapse because either side runs out of money. An army can run out of men or ammunition. But not out of money. It is a strange paradox that times of great human destruction are invariably times of great prosperity. While the war continues, the purse-strings are wide open. Inflation is a counterpart of war. There is unlimited finance to keep mankind in the most unproductive of all human enterprises.
>
> Depression comes in peace-time. They are the aftermath of war. Governments regard the sky as the limit when it comes to borrowing for war, then a few short years later they quibble about a few millions to keep men employed. The money machine breaks down. Families starve. Businesses go bankrupt. Farm lands are stricken with a money drought. A strange paralysis creeps into every form of economic activity. They call it Depression.

When World War II broke out, this is exactly what happened. The expansion of credit to fund the war effort meant that unemployment disappeared almost overnight.

Over the period from 1928 to 1938, however, annual government expenditure only rose by a mere £2.6 million pounds, from £78 million to £80.6 million **(Fig. 3)**. This corresponded with the marginal increase in Treasury Bills issued by the government.

Jim Cairns recorded in his book *Oil in Troubled Waters*, that "whereas borrowing from the central bank through Treasury Bills—by which the Bank creates a credit to the Treasury, on the government's authority, in exchange for a Bill, against which the Bank then lends money to other banks—were not used prior to 1933, and in the nine years to 1941 only to the extent of a net £5 million **[Fig. 4]**, in 1942 Treasury Bills increased massively, and continued all through the war."

Then Curtin-Chifley took over the government in 1941. Immediately they used their war-time powers to give the Commonwealth Bank the powers and

FIGURE 3

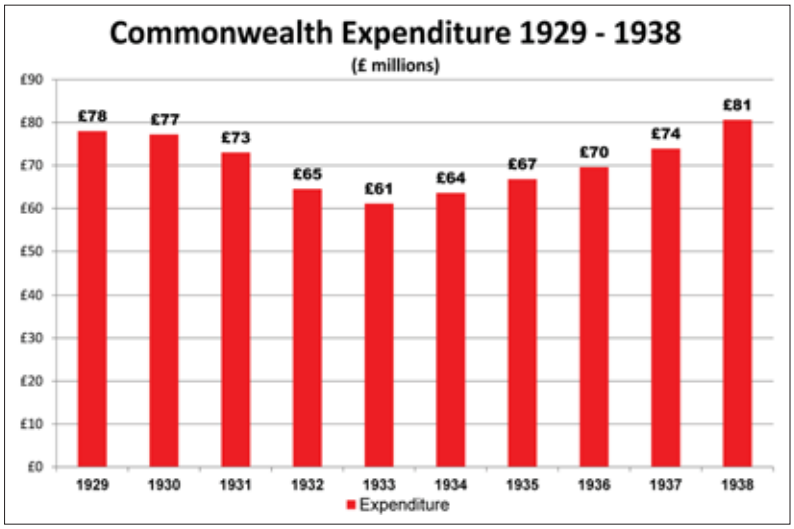


FIGURE 4

Treasury Bills

£ Million Yearly Change

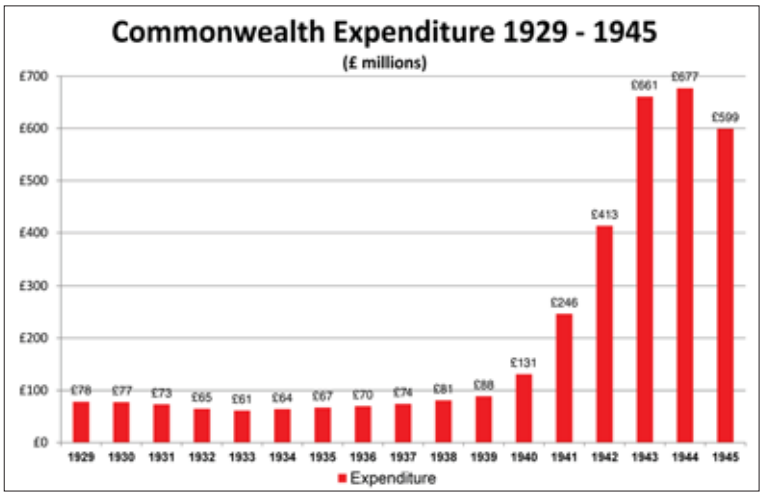
Pre- and early war		War-time under ALP	
1933	+ 4	1942	+ 59
1934	0	1943	+ 173
1935	- 4	1944	+ 77
1936	+ 2	1945	+ 68
1937	- 1	**Total**	**+ 367**
1938	+ 4		
1939	+ 3		
1940	- 4		
1941	+ 1		
Total	**+ 5**		

Source: *The Australian Trading Banks* by HW Arndt

functions that O'Malley had originally envisaged it would have, as a national bank of deposit, issue, exchange and reserve. The Commonwealth Bank took control of the private banks, and financed the war mobilisation.

Whilst lending directly to the government for the war mobilisation, and brokering war loans, the Commonwealth Bank also took charge of the private banks. The private banks were made to deposit substantial reserves with the Commonwealth Bank, so that they couldn't increase the money supply by excessive lending, which would have driven up the prices of rationed commodities and products, and caused inflation.

FIGURE 5



Instantly, the Commonwealth Bank started creating credit on an unprecedented scale, through the government's issuance of Treasury Bills or government IOUs. These were issued specifically for the nation to mobilise its physical economic resources to fight the war. The increase in government spending was huge **(Fig. 5)**. The government would issue the T-bills, which were then used as an asset by the Commonwealth Bank to create those funds that would then fund the government's expenditures.

Within just months of the war economy being mobilised, as **Fig. 6** shows, Australia's unemployment rate dropped to zero!

D.P. Mellor reports in *The Role of Science and Industry*, "The years 1942 and 1943 witnessed an astonishing increase in the number and variety of locally-made machine tools. … At the peak of production in 1943 some 200 manufacturers employed 12,000 persons for an annual output of 14,000 machine tools. By the middle of 1944 what had been Australia's greatest single technological weakness had become a major source of strength."

The economic mobilisation of the war was also notable for the fact that there was virtually no war-time inflation, thanks largely to the strict banking controls overseen by the Commonwealth Bank.

On 9 March 1945, Treasurer Chifley moved the *Commonwealth Bank Bill* of 1945, to make the successful war-time banking structure permanent. He said, "The legislation that I am proposing today is based on the conviction that the Government must accept responsibility for the economic condition of the nation. … Accordingly, the Government has decided to assume the powers which are necessary over banking policy to assist it in maintaining national economic health and prosperity." His bill aimed to:

- strengthen the central banking functions of the Commonwealth Bank [mandatory special accounts];
- ensure that monetary and banking policy of the Commonwealth Bank shall be in harmony with the main decisions of government policy and in the interests of the people of Australia;
- ensure the development and expansion of its general banking business by active competition with the trading banks;
- return the control of the Commonwealth Bank to the governor, who will be assisted by an advisory council;

FIGURE 6

• assist in developing small industries and in enabling the people to secure homes;

• abolish the Board control of the note issue;

• abolish the currency reserve requirement of 25 per cent in gold/silver.

Chifley said, "Reduced to its simplest terms, one of the main responsibilities of a central bank is to control the issue of bank credit by all the banks in such a manner as to *avoid expansion of credit in times of boom,* and *contraction of credit in times of depression*." Or, you could say in short: the government has a central role in the nation's banking.

Chifley's banking reforms horrified the private banks, and today, as a result, we no longer have a Commonwealth Bank. From 1945 until 1996, the Commonwealth Bank was completely destroyed by the desires of London- and Wall Street-directed banks. Between 1991 and 1996, the Hawke-Keating years, these two Labor prime ministers and the Australian government oversaw the sell-off of the Commonwealth Bank.

After World War II

There were only two other attempts to use national credit to develop our nation. The first was the Snowy Mountains Hydro-Electric Scheme. Chifley's great legacy was his agenda for post-war reconstruction, notably the Snowy Mountains Scheme; the second was the Australian Industry Development Corporation.

The legislation instigating the Snowy Mountains Scheme clearly provided for its construction to be financed with national credit. The three sub-clauses relating to funding stated:

1. "The Authority shall have power to borrow money on overdraft from the Commonwealth Bank of Australia upon the guarantee of the Treasurer.

2. "The Treasurer may, out of moneys appropriated by the Parliament for the purposes of this Act, make advances to the Authority of such amounts and upon such terms as he thinks fit.

3. "Except with the consent of the Treasurer, the Authority shall not have power to borrow money otherwise than in accordance with this section."

In a 1949 parliamentary debate on the funding, Kim Beazley Snr for the ALP Government made it clear that sub-clauses 2 and 3 reinforced 1, and that all funding was to come from Commonwealth Bank credit. This intention was one that fell victim to Chifley's losing office, because it never happened. Prime Minister Robert Menzies and his successors ended up funding the entirety of the 25-year spending on the Snowy out of consolidated revenue.

In a 1952 parliamentary debate, the ALP's Charles Morgan argued: "If a factory owner wishes to extend his factory, a farmer to erect new farm buildings, or a worker to raise a home, he does not do so from current income; he raises a loan and pledges his future to repay the capital so raised. Surely the same principle can be applied to national construction, particularly in relation to such important developmental works as the Snowy Mountains hydro-electric scheme, which is of paramount importance to Australia. Surely that scheme could be financed by national credit and the resources of the Commonwealth Bank, without recourse to current revenue. Work on the project could be speeded up considerably if such a project were adopted. We have been able to raise millions, and even billions, of pounds for war purposes. Why cannot we also raise money for peaceful purposes?"

The Australian Industry Development Corporation

There was one last interesting development towards the end of the Liberal Party's rule, when the John Gorton-John McEwen Government established a new public credit institution, the Australian Industry Development Corporation (AIDC), which was to be a vehicle for investing in value-adding industries. It was a reaction to the growth in raw-materials looting, led by Rio Tinto in Western Australia (an area also targeted for heavy financial speculation).

A paper presented to the Cabinet calculated the value difference in exporting bauxite vs. processed aluminium, in 1970 dollars:

• 1 million tonnes of bauxite, exported as the raw material, earned $5 million;

• processed one step into alumina, it earned $27 million;

• processed again into aluminium—$125 million;

• and processed finally into aluminium products—$600 million!

Gorton's critics in his own party warned that he was creating a tool for Jim Cairns to use when in government, to socialise Australia. Cairns said: "Money is created by the Reserve Bank and by the Trading Banks and for their own requirements; the Australian government may borrow from this created money, as it did during the Second World War. The Australian government in 1974 and 1975 could have used Treasury Bills to borrow from

the Reserve Bank to help finance the building of pipelines, the operations of the AIDC and for other purposes and this, as far as possible, I was determined to bring about."

The AIDC was a vehicle created to express sovereignty, and, interestingly, Malcolm Fraser as defence minister, speaking on ABC radio about the AIDC, said: "Its role, broadly, is to assist Australian interests in marshalling financial resources, particularly from overseas, for major industrial development. It will direct itself to giving assistance in ways which will help Australian companies to gain or preserve a greater Australian participation that otherwise would be the case."

Cairns, as treasurer in the Whitlam Government, sought to make full use of the AIDC, but it was ill-equipped, not empowered to operate like a national bank.

From what I have elaborated, you can see the rich history we have had with national banking in our country.

The Commonwealth National Credit Bank

Today, we, the CEC, have written the legislation for a new national bank called the Commonwealth National Credit Bank (**page 84**). Its essential points are diagrammed in **Figs. 7 and 8**. It creates a true national bank, which draws upon the best features and ideas of King O'Malley. The torch of national banking and national credit has been handed to us, to implement in our country with Glass-Steagall and other necessary actions.

FIGURE 7

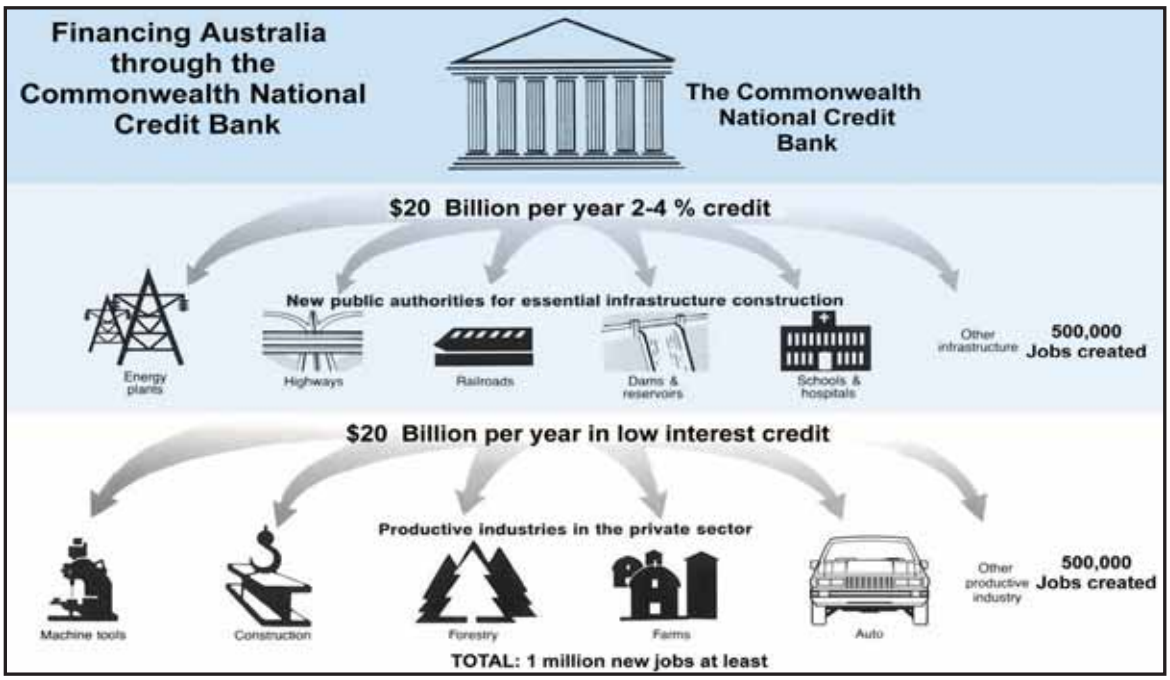
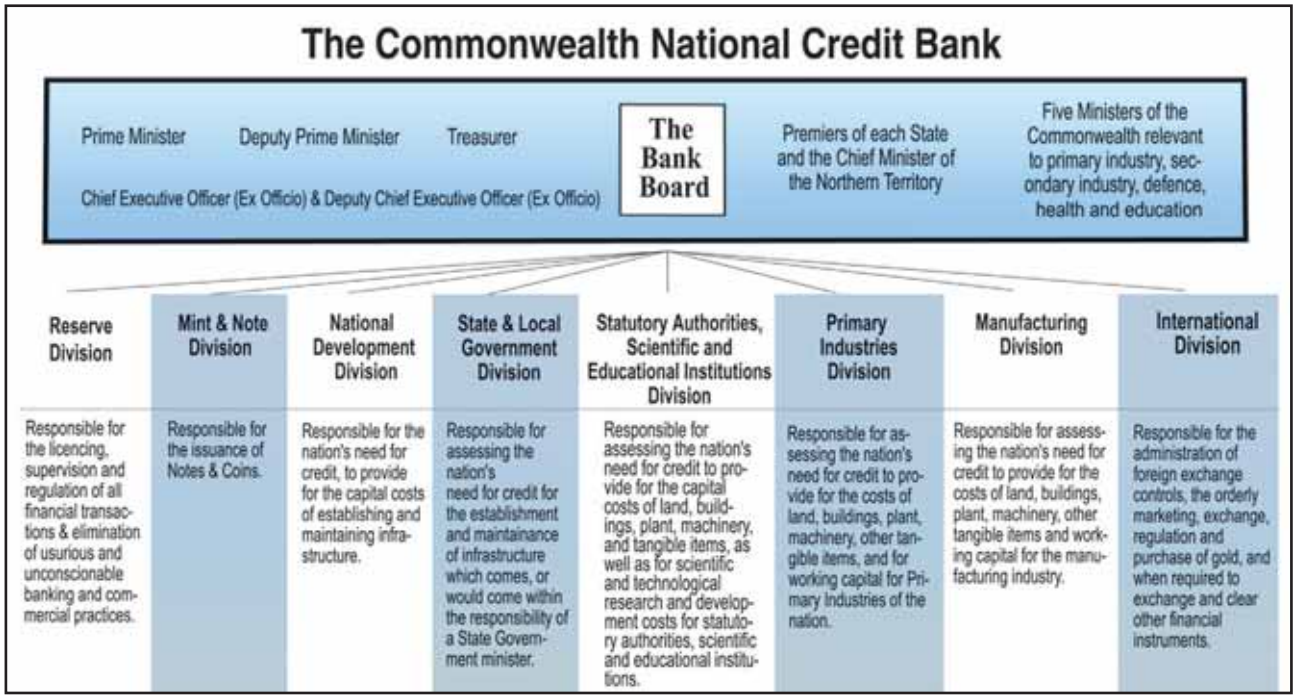


FIGURE 8



Part 2

Fraud and Crimes of the Banks

The British Crown/City of London Criminal Financial Empire

"We assess that hundreds of billions of U.S. dollars of criminal money almost certainly continue to be laundered through UK banks, including their subsidiaries, each year." That finding was made by Britain's own National Crime Agency in 2015. In May of that year, international criminal money-laundering expert Roberto Saviano told an event at the House of Commons that "London is now the global money-laundering centre for the drug trade", the *Independent* reported on 4 July 2015.

Criminality on a staggering scale is not a regrettable by-product of an otherwise legitimate system, *but the very soul of it.* As our flow chart **(page 26)** shows, the global financial system's "offshore" and "onshore" components are seamlessly connected, both being supervised by the Crown through its Privy Council. Their power over core financial agencies such as the City of London Corporation and the Bank of England, which operate under Royal Charter, is no mere formality. As the Privy Council itself states on its website, "once incorporated, by Royal Charter, *a body surrenders significant aspects of the control of its internal affairs to the Privy Council.*"

The 1000-year old, secretive City of London Corporation is the coordinating body for London's financial district and its megabanks, with its own governing body, laws, and police force. It also controls the City Cash, a private fund built up over the last eight centuries, funding monuments and ceremonies, stakes in property developments, free-market think tanks, and permanently staffed lobbying offices worldwide.

The City's most famous resident institution is the Bank of England, which not only was the model for all modern central banks—answerable not to the interests of the population, but only to those of the ruling oligarchy—but it also, still today, guides a vast apparatus of institutions: the Bank for International Settlements, the Financial Stability Board, and, through them, the banking regulators of Australia and many other countries. There is a rotating door for personnel between these institutions and the megabanks.

Within the offshore dirty-money system proper, there are Crown Dependencies, Overseas Territories, and former British colonies. The Queen appoints the governors of the first two, while all legislation requires Privy Council or gubernatorial approval, respectively. Combined, these three groups of jurisdictions account for 37 per cent of all bank deposits in the world.

Wall Street, the famous New York financial centre, is historically and by function a junior partner of the City of London. Its banks are tightly interfaced with London's and engage in the same practices. Today nearly 70 per cent of the on- and off-balance sheet foreign assets of U.S. banks are held in the UK. The same type of relationship, as a "branch office" of the City of London, holds true for the EU's European Central Bank, which since its inception has been run by European figures with close ties to the City, and for several European megabanks, including Deutsche Bank.

In the political realm, the British Cabinet is a formal subsidiary of the Privy Council. Thus successive British governments, both those of New Labour's PMs Tony Blair and Gordon Brown (1997-2010) and their Conservative Party successors, are witting participants in the criminality. Saviano charged that British governments have repeatedly blocked anti-money laundering measures sought by the European Union.

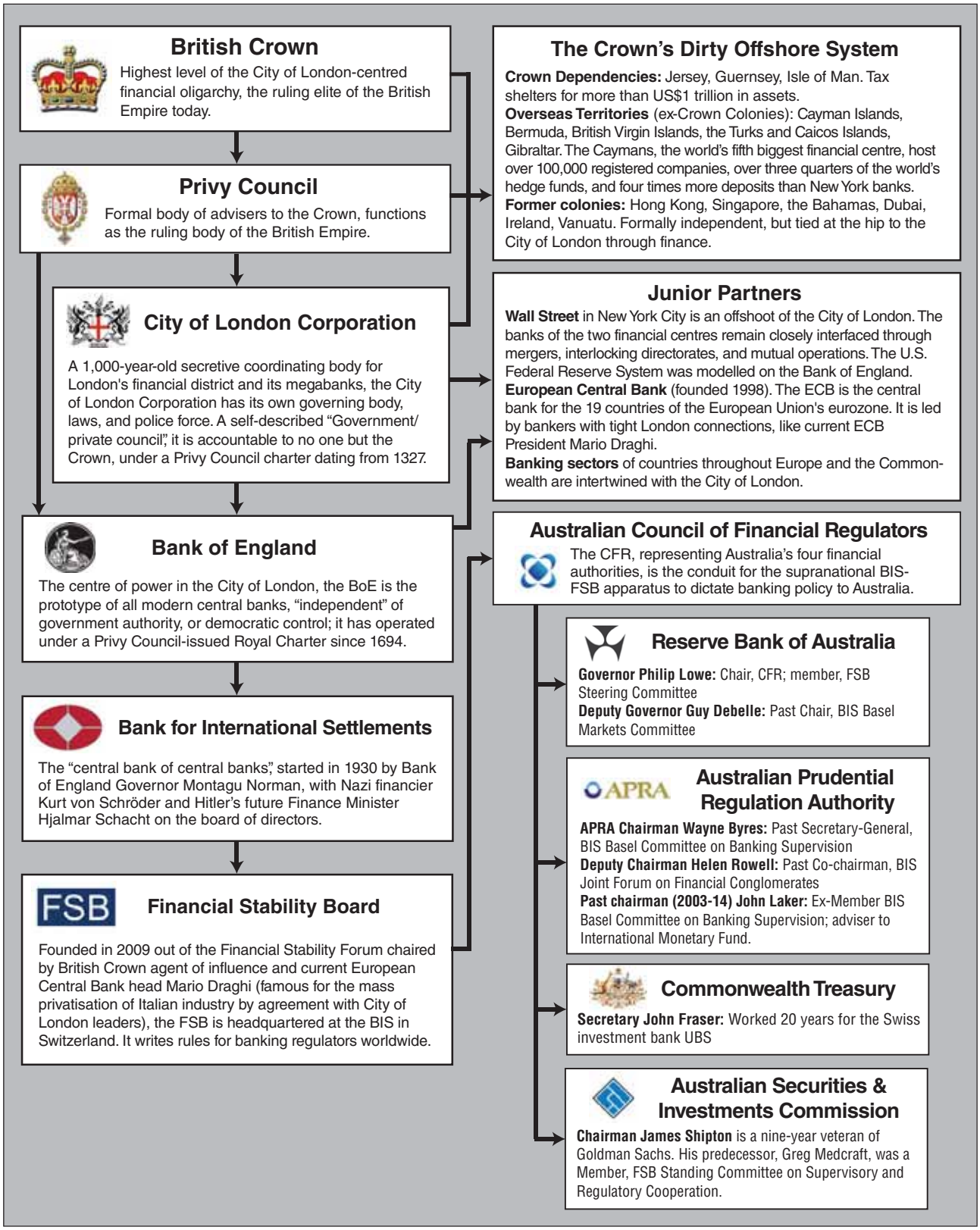
The City of London Corporation's institutional lobbyist, the Remembrancer, sits in the UK Parliament with veto power over legislation.

"Illegal" Criminality

Even a preliminary catalogue of the crimes of the City of London and related banks makes up a substantial dossier. They fall into two groups: "illegal" (admitted to be criminal) activity and ostensibly "legal" operations like derivatives speculation. The two types are inextricably intertwined. Derivatives caused the 2008 crash, while the crucial margin of cash, beyond massive government bailouts, that allowed the too-big-to-fail (TBTF) banks to survive *was provided by the world drug trade.* Former Russian anti-drug chief Victor Ivanov called drug money "the foundation of the modern financial system"; his Federal Drug Control Service had determined in 2012 that "at the height of the 2008-09 financial crisis, around $352 billion in drug money was thrown into the world's largest banks to deal with their critical liquidity shortage: the funds were subsequently integrated into interbank operations."

Among the types of "illegal" criminality are these:

1. *Rigging of the world's two most important international money markets*: the London Interbank Offered



Rate (LIBOR), the most influential interest rate in the world; and the $5 trillion per day global foreign exchange (Forex) market. As of 2013, London conducted 41 per cent of world Forex trading, as against only 19 per cent on Wall Street. These markets exist thanks only to the cancellation of the Bretton Woods system of fixed exchange rates in 1971, and they allow the London-centred international cartel to extract trillions from the public of every nation in the world.

LIBOR is set daily in London, based on an average of rates quoted by a group of 16 banks, and is used to denominate well over a quadrillion dollars' worth of financial contracts globally. Even a tiny fraction of a per cent change in LIBOR enabled banks to "skim" large amounts of money from these transactions. When the LIBOR-rigging scandal broke in 2012, then-Chancellor of the Exchequer George Osborne refused to appoint a full judicial inquiry, opting for a parliamentary inquiry

The Case of HSBC

Excerpted from Anton Chaitkin, "The Magnitsky Hoax: How the Explosive U.S. Probe of London's Offshore Crime Machine was Turned into a New Cold War Against Russia", Australian Alert Service, 26 July 2017.

HSBC—originally the Hongkong and Shanghai Bank—was established in 1865 in Hong Kong, the colonial coastal enclave the British empire had taken from China in the 1839-42 Opium War. The British bank was notorious as the leading institution in the criminal opium trade, which continued into the 20th century. Early in the 21st century, HSBC again became infamous for crimes including money-laundering for narcotics cartels.

HSBC's leaders pulled together the apparatus used in this later criminal phase by purchasing other institutions between 1999 and 2002. In May 1999 HSBC announced it would acquire the offshore-vectored interests of billionaire Edmond Safra, namely the Republic National Bank of New York and the Swiss bank Safra Republic Holdings. Safra's banks concentrated on placing the money of his wealthy clients beyond the reach of tax authorities and law enforcers.

Safra also specialised in Russia operations. Upon the collapse of the Soviet Union in 1991, British PM Margaret Thatcher and U.S. President George H. W. Bush had helped open up Russia to raw-materials looting and other gangsterism. Safra's Republic of New York was a key intermediary: every day it bought new $100 bills from the New York Federal Reserve Bank and shipped as much as a ton or more of them on an overnight flight to Moscow. The cash, reported Robert I. Friedman in a 1996 *New York Magazine* article, was used "to finance a vast and growing international crime syndicate".

After Safra's murder in December 1999 the Federal Reserve approved HSBC's acquisition of Safra's banks. The deal doubled HSBC's private banking business to about 55,000 international private banking clients, with US$120 billion in funds under management. Through its offshore units in Guernsey and the Cayman Islands, HSBC now controlled Hermitage Capital Management, which became the largest foreign-owned investment fund in Russia, with (officially) US$4 billion under management. Through it, HSBC siphoned more billions out of that bleeding country.

The Levin Report

The U.S. Senate Permanent Subcommittee on Investigations, chaired by Sen. Carl Levin, reported in 2012 that HSBC had been party to "a wide array of money laundering, drug trafficking, and terrorist financing". HSBC's Mexican affiliate channelled US$7 billion into the United States between 2007 and 2008 alone, which may have included "proceeds from illegal drug sales in the United States." For example, HSBC-Mexico had a Cayman Islands branch, which handled 50,000 accounts and US$2 billion in 2008, but had no staff and no office. The report said that HSBC financed and serviced banks in Saudi Arabia and Bangladesh tied to terrorist organisations, and that it cleared US$290 million in "obviously suspicious traveller's checks" for Russians who were likely money-launderers.

On 11 December 2012 U.S. authorities fined HSBC the miniscule sum of US$1.92 billion for allowing money-laundering by criminals and terrorist networks. It was the third time since 2003 that HSBC had officially agreed to U.S. orders to cease misconduct. U.S. Assistant Attorney General Lanny Breuer told a New York press conference that Mexican drug traffickers had deposited hundreds of thousands of dollars daily in HSBC accounts. Mexico's Sinaloa cartel and Colombia's Norte del Valle cartel laundered at least $881 million through HSBC in New York and through its Mexican unit. The *New York Times* reported that HSBC received a fine, but no criminal indictment, because the Obama Administration decided that criminal charges against HSBC "could jeopardise one of the world's largest banks and ultimately destabilise the global financial system."

instead. He was subsequently also accused of intervening to stop a Financial Conduct Authority probe of the City of London's banking "culture", an investigation the banks complained was "banker-bashing".

2. *Laundering drug money and financing terrorism*. A top drug-money player is London-based HSBC, the second largest bank in the world. It has been caught time and again, but punished only lightly. HSBC's history in the British Crown-sponsored dope trade dates back to the 19th century.

3. *Tax evasion*. Offshore "tax havens", Crown-governed and City of London-managed, loot every nation in the world of hundreds of billions annually.

4. *Mortgage fraud*. The subprime mortgage scam triggered the 2008 GFC, in which eight million families lost their houses in America alone.

5. *Outright theft of customers' deposits*. The U.S. bank Wells Fargo and the Royal Bank of Scotland are recent dramatic cases. RBS, under its Dash for Cash project, was shown to have preyed upon its own small- and medium-business customers, pushing them into bankruptcy in order to then scoop up their assets. Wells Fargo was exposed in 2016 for defrauding 2 million of its own customers through fees charged on accounts the customers had never agreed to open. In 2010 it had paid a paltry $160 million fine for failing to stop drug-money

laundering by a subsidiary. In 2011 its crimes of misrepresentation to pension funds of the quality of mortgage-related securities Wells Fargo was selling, steering customers to costly subprime mortgage loans, and municipal bond rigging each resulted in even smaller fines.

Besides outright theft, central banks' bailout lending to the TBTF banks at close to zero per cent interest has driven down the return on all kinds of securities, upon which pensioners and others had depended, thus looting them of as much as $10 trillion since the 2008 crisis.

In addition to the Bank of England's key role in orchestrating this international "bailout" process, its Governor Mark Carney and former Deputy Governor Paul Tucker took the lead in inventing "bail-in", which allows the TBTF banks to seize customers' deposits if needed to stay afloat.

FIGURE 1. London banks and Deutsche Bank: derivatives exposure vs. assets and deposits, 2017 (US$ trillion)

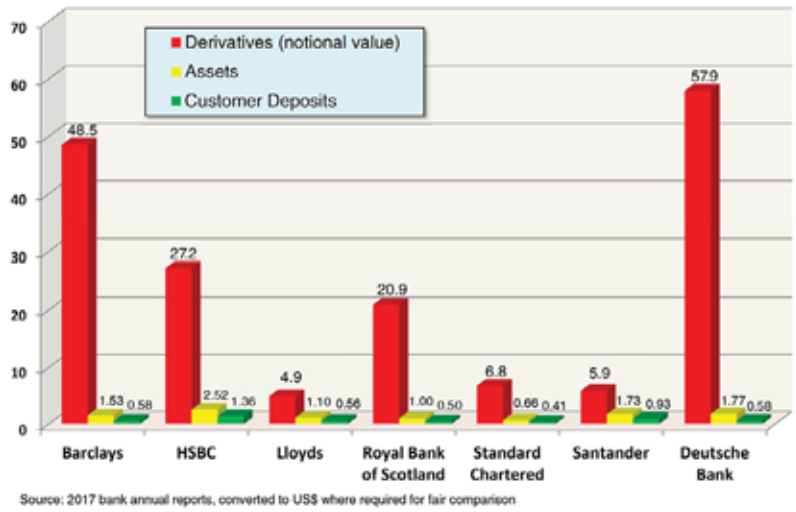
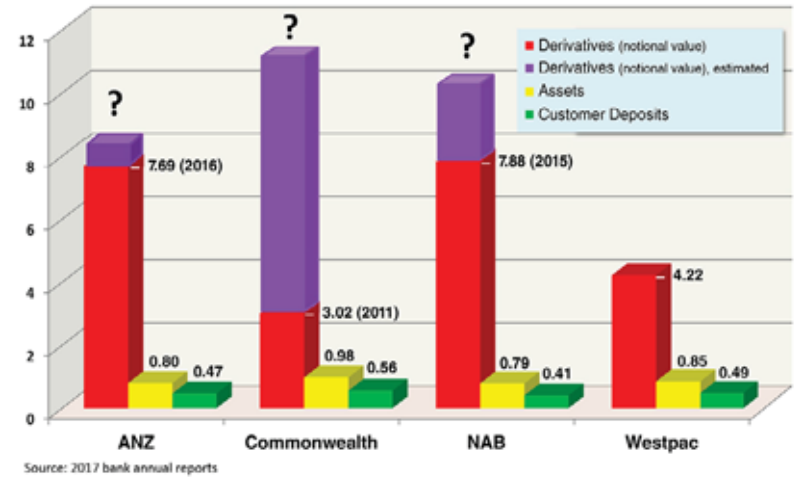


FIGURE 2. Australia's Big Four banks: derivatives exposure vs. assets and deposits, 2017 (AU$ trillion)



Derivatives holdings of the City of London banks known as the Big Six, particularly Barclays, HSBC and the Royal Bank of Scotland, dwarf their assets (lending) and deposits. Figures for Santander Bank are shown for the Spain-based company as a whole; its representative in the Big Six is Santander UK. The derivatives exposure of Australia's banks follows the City of London model. Three out of the Australian Big Four have ceased publishing their derivatives holdings in full: Commonwealth Bank in 2012, NAB in 2016, and ANZ in 2017.

"Legal" Criminality: Derivatives

Financial derivatives, which now have an estimated total nominal value of at least $1.2 quadrillion, have obscure names like "mortgage-backed securities" (MBS), "credit default swaps" (CDS), and "collateralised debt obligations" (CDO). The nature and operation of most derivatives is almost impossible to understand, even for the chairmen of the major banks who sell them. What is crucial to know, is that they are essentially *criminal instruments*. As a system of bets upon the movements of other financial instruments and non-financial processes (like the weather), they are designed to evade laws restricting dangerous financial speculation. Until the early 1990s derivatives were still illegal in most countries, under anti-gambling laws.

While the common gambler bets his own money, the titans of London and Wall Street bet their depositors' money—seeking much higher returns than they could get from lending to the real economy. If they "win" they make speculative fortunes; if they lose they look for a government bailout.

Derivatives were pioneered by the City of London in the 1950s, but their use boomed worldwide after the 1986 Big Bang financial deregulation in London and the 1999 repeal of the U.S. *Glass-Steagall Act*, which had kept normal commercial banks out of such operations. When the derivatives bubble burst in 2008 and necessitated an international bailout regime, the scheme was constructed by long-time Credit Suisse executive James Leigh-Pemberton, son of an ex-governor of the Bank of England, from a family handling finances for the British Royals over the past century and a half.

Today the major London and Australian banks are in worse shape than Lehman Brothers on the eve of the 2008 crash. **Figs 1 and 2** illustrate their derivatives exposure, which dwarfs assets and deposits. The bailout begun in 2008 (now termed "quantitative easing", QE) has never ended, even though the banks pour almost all funds obtained from QE into derivatives and other speculative deals—invariably with each other—and not into lending to the real economy.

For additional sources on bank crimes, see page 38, bottom.

'Bail-in': They Plan to Steal Your Personal Bank Deposits and Pensions!

This article was originally issued as a Citizens Electoral Council media release on 22 March 2016, and has been edited and updated. Visit www.cecaust.com.au/bail-in to find PDF and HTML versions containing live hyperlinks to sources.

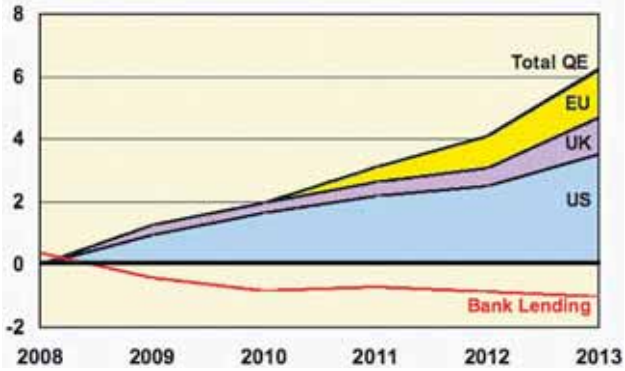
The world is hurtling towards a far worse financial collapse than even the crash of 2008. An unprecedented stock market bubble and bloated debt balance sheets in areas ranging from corporate debt to real estate markets to consumer borrowing, throughout the Transatlantic sector of the world economy (and those attached to it, including Australia and New Zealand), have brought authoritative warnings of the next, looming megacrash, while the actions of the transnational financial authorities demonstrate fast-growing desperation on their part. Foremost among those actions is "bail-in", the asset-confiscation model that got its test run in Cyprus in 2013.

In 2008, the international financial oligarchy, centred on the British Crown, the City of London, and Wall Street, had directed terrified governments to spend tens of trillions in public funds to "bail out" so-called too-big-to-fail (TBTF) banks **(Fig. 1)**, whose quadrillions of dollars in speculation had caused the crisis in the first place. In the years since, those banks have not stopped their unbridled speculation, nor their drug-money laundering, terror-financing, tax evasion and other criminality; the tens of billions of dollars in fines incurred for such activity are simply written off as a cost of doing business.

But, bailouts were not enough. While hiding behind sophistical declarations of a desire to avoid 2008-style taxpayer bailouts in the next crisis (which their own policies were making sure would come), the Bank for International Settlements (BIS) and its Financial Stability Board (FSB) developed plans to simply seize private assets, including the bank deposits of ordinary citizens—"bail-in", as opposed to "bail-out". The FSB was established at the April 2009 London Group of 20 summit to effect the G20's "post-crisis reforms", with protecting the existing global financial system its first priority. In October 2011 the FSB adopted its policy document "Key Attributes of Effective Resolution Regimes for Financial Institutions", a global template for applying bail-in to failing TBTF banks.

The rationale for bail-in goes like this. When a bank fails because its assets (such as mortgage loans) are not enough to cover its liabilities, rather than its being declared bankrupt or bailed out with taxpayer money, the bank will be kept open for business by the intervention of a government-appointed bail-in authority, which takes over the bank and acts to reduce its liabilities. The authority will write down (cancel) some of the value of the bank's debt. Creditors, such as holders of the bank's bonds, may have those bonds converted into equity (shares) in the bank. Not only bondholders, but also depositors are classified as "unsecured creditors". Thus, to reduce the bank's liabilities the bail-in authority can vaporise the savings of its customers and assets of its bondholders, compensating them with worthless shares in the "resolved" institution.

FIGURE 1



Transatlantic QE and bank lending (trillions of US$, cumulative change, 2008-13). QE ("quantitative easing"), the trillions of dollars poured into the world's megabanks since 2008, totalled at least US$12 trillion as of 2017. These endless bailouts did not trigger an increase in bank lending, but were diverted into the global speculative financial bubble. Source: EIR

"Bail-in" regulations, as designed by the Bank of England, the BIS, and the FSB, define a wide range of confiscatory actions. In order to build buffers against losses from their huge speculative activities, banks are required to sell "bail-in bonds" (also called "hybrid securities"), which carry the provision that they will be written down and/or converted to shares in a crisis, effectively becoming worthless. These are typically sold to large and presumably "knowledgeable" investors such as insurance and pension/superannuation funds, but sometimes, as in Italy and Australia, they are sold directly to unsuspecting individual savers and investors as inherently safe. One way or the other, whether through simple stealing of individual bank accounts or large-scale looting of superannuation funds, the architects of bail-in emphasise that individuals will be forced to pay.

At a 5 November 2014 forum in Washington, DC, on the 2010 *Wall Street Reform and Consumer*

Protection ("Dodd-Frank") Act, which enshrined bail-in in the USA, former Bank of England Deputy Governor Sir Paul Tucker, one of the architects of bail-in, declared that for a permanent bail-in system to work, the burden of keeping the banks from failing must fall on households, through their superannuation and insurance funds which hold bail-in securities. "You absolutely can't allow banks and shadow banks to hold it", Tucker insisted. "So that leaves you with insurance companies, pension [superannuation] funds, mutual funds, etc. And when I've said that in other groups, people have said, 'My goodness, it's households!' ... Well, there are only households ... Do you want all the risk to fall back on Wall Street firms?"

On 1 January 2016 new bail-in regulations with the force of law took effect throughout the European Union. The EU's Bank Recovery and Resolution Directive (BRRD) allows TBTF banks to seize personal bank deposits. The UK, whose Bank of England (BoE) was the BRRD's principal author, had put the new law fully into effect already on 1 January 2015.

Attempts during 2013-15 to pass bail-in legislation in Australia were defeated by the Citizens Electoral Council's mass mobilisation **(page 39)**. The Australian Prudential Regulation Authority (APRA) then declared, fascist-style, that it could impose bail-in without legislation;[1] nonetheless, APRA's international masters continued to demand that the practice be legitimised through legislation **(page 41)**. Although none of the 30 megabanks classified by the BIS as Global Systemically Important Financial Institutions (G-SIFI) is Australian, each of Australia's Big Four banks is among the top 50 banks worldwide. Therefore Australia's financial system as a whole is ranked by the IMF as "systemically important", meaning that a banking crash in Australia could bring down the entire Anglo-American system.

Bail-in devastated the nation of Cyprus in 2013, an experiment which the president of the Eurogroup of European finance ministers, Jeroen Dijsselbloem, proclaimed to be the "template" for the entire EU. Since then it has been applied to a lesser, but still disastrous, effect in Portugal, Spain and Italy.

In reality, bail-in cannot save the TBTF banks: the amount of depositors' funds available to be seized is so small in comparison to the amount of speculative debt held by the banks, that governments will be forced once again to cough up untold trillions in "bail-out", on top of "bail-in". In addition, the very spectre of bail-in destabilises financial relations. For example, in early 2016 the fact that bail-in was now on the books so terrified investors about being "bailed in" in the future, that they drastically cut back on bond purchases; the collapse of bond markets was a major factor in the drastic 10 March 2016 decision of the European Central Bank (ECB) to pump money into the big banks through zero and negative interest rates and increase quantitative easing—the ECB's own bond purchases—by one-third, to 80 billion euros per month, a rate of money-pumping greater than the U.S. Federal Reserve System's QE at the height of its post-2008 interventions.

But bail-in is not merely, or even mainly, a "financial" trick. Its design is *political.* The real agenda behind bail-in is the intention of the Crown/City of London/Wall Street cabal to enact fascist police-state regimes and reduce the population throughout the Western world, even as they gun for a military showdown with Russia and China, to loot and subdue the BRICS nations (Brazil, Russia, India, China, and South Africa) before their own Transatlantic system collapses. The racist eugenics philosophy of the British Crown and its adjuncts underlies such measures as bail-in.

Bail-in: Derivatives Come First

The financial instruments known as "derivatives" lay at the heart of the 2008 Global Financial Crisis (GFC). The TBTF banks had concocted hundreds of trillions of dollars in these speculative gambling bets on everything imaginable: changes in interest rates and the value of currencies; farm and other basic commodity prices; dodgy mortgages; stock market indices; and even the weather. The nominal value of derivatives has no tangible backing; they are contracts that promise future pay-outs to their purchasers, depending on what happens with what is being bet upon—either changes in the price of a commodity or financial instrument, or some other process. They are acquired by investors for amounts far smaller than the nominal value, in a matter somewhat analogous to, but much worse than, buying stock on margin. Quite apart from the staggering amount of outright fraud involved in derivatives today, such financial gambling bets were strictly *illegal* during most of the post-war period, because they would prey upon and disrupt the flow of credit to the real physical economy.[2] The speculative bubble of derivatives was estimated at nearly US$1.2 quadrillion (a thousand trillions), against a world GDP of only US$60 trillion, when it triggered the 2007-08 crisis. The TBTF banks of London and Wall Street threatened to fall like a row of dominoes, with the City of London—the centre of

Continued page 32

1. Christopher Joye, "Ensuring the major banks are not too big to fail", *Australian Financial Review,* 20 Dec. 2015, summarised the Australian bank regulator APRA's assertion that even without special bail-in legislation it already had bail-in powers under existing Australian law.

2. The CEC's "Glass-Steagall Now!" web page www.cecaust.com.au/bail-in details how derivatives work, and the history of their formerly illegal status in the USA, Australia, and most other countries.

The Impact of Bail-in on Europe

Europe in 2016 adopted a "bail-in" regime—the Bank Recovery and Resolution Directive (BRRD)—under which government bailouts are permitted only in exceptional circumstances, and only in conjunction with a mandatory bail-in of the failing bank's various classes of unsecured creditors. This practice of confiscating creditors' investments, or transforming them into shares in the bankrupt entity, is called "burden sharing". In reality, there's not much sharing: innocent retail customers, whether bondholders or depositors, bear the greatest burden, being punished for the bank's reckless gambling. This, in turn, has negative consequences for the national economy, as has been seen in one country after another.

Cyprus: The so-called Troika (International Monetary Fund, European Central Bank and European Commission) demanded that Cyprus confiscate money from its banks' customers, following the crisis in early 2013. Initially they planned to seize a percentage of all deposits, but re-evaluated the plan after opposition from Parliament, and only seized deposits over the guaranteed level of €100,000. Access to deposits under €100,000 was frozen, with bank withdrawals limited to €300 per day. Bills could not be paid, workers were laid off, stores closed. Electricity consumption plummeted 25 per cent in two weeks. Merchants refused to accept letters of credit from Cypriot banks. Four months later, domestic bank deposits had shrunk by 70 per cent. Unemployment rose from 11.7 per cent to 17.3 per cent in one year, the fastest growth rate in the eurozone. Youth unemployment reached 40-45 per cent. GDP crashed, and as of 2016 was still 28 per cent below its 2011 level.

The model of suspending and limiting withdrawals from banks had been pioneered in Greece in late 2009. Along with the Troika's austerity measures, it resulted in shortages of medication, destruction of the health care system, and cuts in pensions and public sector salaries. Public consumption dropped by over 50 per cent in four years. Greece suffered increased poverty, death and a 50 per cent rise in the suicide rate as a result.

Italy: In November 2015, the government of Italy rushed through a "rescue package" for four insolvent commercial banks, which had been taken under administration by the Bank of Italy during the previous two years. Along with a €3.6 billion bailout came a €768 million bail-in of subordinate bonds, half of which were owned by some 10,500 retail savers. These were effectively depositors in the four banks, who had been manipulated into buying bail-in bonds by their banks when they were already in receivership.

A 68-year-old retiree who lost €110,000 in subordinate bonds in Banca Etruria, one of the four, committed suicide after the loss, leaving a note accusing his bank of stealing all his savings. Regional banks Banca Popolare di Vicenza and Veneto Banca ran into trouble in early 2016 and were liquidated by the European Central Bank (ECB) in June. While a full-blown bail-in was avoided, "burden sharing" was required, meaning some shareholders and subordinate bondholders were burned.

The EU continually pressed for a bail-in of Italy's long-insolvent Monte dei Paschi di Siena (MPS), but the Italian government held out, knowing it would affect 40,000 retail investors. In June 2017 a bailout for MPS was finally agreed between Italy and the EU, accompanied by a partial bail-in. Under an exemption from Europe's bank-resolution framework, the government was permitted to bail out MPS to the tune of €3.9 billion, but only because retail customers had €4.3 billion bailed in. Junior bondholders in the bank were given bank stocks that were only 18 per cent of the value of their bailed-in bonds.

Portugal: On 29 December 2015, Portugal's Novo Banco, the "good bank" established after the collapse of the Banco Espirito Santo group in 2014, expropriated €12 billion from its senior bondholders to "recapitalise" the bank. That prompted a run on the bank, plunging the value of the bonds from 94 cents on the dollar in the morning, to 14 cents in the afternoon.

Spain: When Spain's Bankia collapsed in 2012, "preferred stocks" were written down by 30-70 per cent; their price then plummeted to 0.5 per cent of their former value. Most of the "stockholders" in Bankia were former small depositors in the bank, who had been fraudulently sold these bonds, known in Spain as preferentes. Some of the over 1 million families invested in preferentes lost up 90 per cent of their savings.

Spain's sixth largest bank, Banco Popular, drowning in bad speculative real estate deals, was wound up and bailed-in by EU authorities after the European Central Bank's Single Supervisory Mechanism declared it "failing or likely to fail" in June 2017. The EU's Single Resolution Board stepped in and orchestrated the sale of the bank to rival Spanish bank Banco Santander for the nominal fee of €1. Stockholders and Tier 1 and 2 bonds (Contingent Convertible, or bail-in bonds) were wiped out by close to 100 per cent, while senior bondholders and depositors were spared.

Austria: In April 2016 Austria ordered a bail-in that confiscated some €6 billion of senior debt of the Heta Bank, which is the previously bailed out remains of the bankrupt Hypo Alpe Adria Bank. Heta's senior creditors suffered a 54 per cent "hair cut".

In each of these crises, rules have been thrown out the window or new ones adopted to suit the circumstances. For instance, in the Novo Banco case, the Portuguese Central Bank was directed by the ECB to ignore the rule of so-called "equal treatment" for unsecured creditors.

the world derivatives trade and the place where the crisis began—admitted to being in far worse shape than even Wall Street.

Because the TBTF banks lend almost solely to each other, and not to the real economy, if the derivatives bets of even one of them go sour, the whole global system will blow.[3] The closing of such a bank even for a few days could set off a chain reaction. Therefore the Bank of England and its flunkies at the Bank for International Settlements concocted the bail-in scam. "Open Bank Resolution", the name given to the scheme in New Zealand,[4] is descriptive: the bank remains open for business during the process. Instead of a normal bankruptcy proceeding, in which a hopelessly bankrupt bank is wound up and closed, and its creditors are paid from whatever is left of its assets ("closed bank resolution", so to speak), bail-in laws and decrees provide for failing TBTF banks to be reorganised over a weekend, in order to keep them open for business on Monday.

Under traditional bankruptcy law in Australia, the UK, the USA and elsewhere, depositors had first claim on any remaining assets of a bank that folded. Under bail-in, however, because bondholders and depositors are classified as "unsecured creditors", the bail-in authorities will simply write off whatever percentage of the bank's bonds and deposits they deem necessary and/or convert them into illiquid or even near-worthless equity in the salvaged bank. This process, called "recapitalisation", has already happened in EU countries where bail-in has been applied. But there is an additional, crucial feature embedded in the now global bail-in model: derivatives are prioritised above any other claims, specifically including deposits. This provision, known as the "super-priority of derivatives", explicitly exempts them from being bailed in.

In the United States, derivatives obligations were given super-priority status already in 2005 under the *Bankruptcy Abuse Prevention and Consumer Protection Act*; this status was continued under the 2010 *Dodd-Frank Act*, which excludes them from being bailed in. The EU's BRRD exempts derivatives from bail-in unless they have first been "closed out", and requires national regulators to exempt certain liabilities so as to "avoid giving rise to widespread contagion". In effect, this exempts all derivatives. A City of London banking source told the CEC, "The rules on this [closing out of derivatives] are highly complex and there are fears in the financial markets that their operation could be severely disruptive if ever a bail-in situation arose."

The decision to accord super-priority to derivatives is no surprise, because the two individuals credited with inventing the notion of bail-in, after the 2008 GFC, are Paul Calello and Wilson Ervin, top derivatives salesmen for Credit Suisse First Boston, a bank already notorious for derivatives fraud. Calello had been involved in winding up the U.S.-based hedge fund LTCM, whose failure almost brought down the world financial system in September 1998. Both Calello and Ervin were present at the infamous weekend meeting at the New York Federal Reserve in September 2008, where that year's bail-out was plotted. Speaking on behalf of the failing system, Calello and Ervin floated the new bail-in scheme in an editorial in the 28 January 2010 issue of the City of London's flagship magazine, *The Economist*. Thereafter, according to Ervin's own account in a 12 March 2015 interview with the *International Financial Law Review*, titled "The Birth of Bail-in", the model was championed by three individuals in particular: **Mark Carney**, the former Bank of Canada governor who took over as chairman of the BIS's Financial Stability Board (FSB) in January 2011, and on 1 July 2013 also became governor of the Bank of England; **Paul Tucker**, the Bank of England's deputy governor for financial stability; and **Jim Wigand**, director of the Office of Complex Financial Institutions of the U.S. Federal Deposit Insurance Corporation (FDIC).

Champions of Bail-in: Goldman Sachs, the Bank of England and the BIS

The careers of Carney and Tucker, foremost champions of bail-in, are a window into the world of the financial oligarchy.

For 13 years, Carney held top posts at the world's largest and most notorious investment bank, Goldman Sachs, a major player in the subprime mortgage

3. Ross Gittins, "Banks are using us to hedge their bets", *Sydney Morning Herald*, 2 Feb. 2016, reported that the well-known Oxford economist John Kay, addressing a meeting organised by the Grattan Institute on 1 Feb. during his tour of Australia, emphasised that only 3 per cent of the loans made by TBTF banks go to the real economy. Summarising Kay's presentation, economics editor Gittins wrote: "We need a financial sector to service the needs of the 'real economy' of households and businesses producing and consuming goods and services. But none of this justifies the huge growth in the financial sector we've seen. Most of that growth has come in the form of massively increased trading between the banks themselves in 'financial claims', such as shares and bonds and foreign currencies and 'derivatives' (claims on claims, and even—if you've seen The Big Short [film]—claims on claims on claims). If you add together all the financial assets ('claims') owned by all the banks and other financial outfits, they exceed by many times the value of the physical assets—such as houses and business buildings and equipment—which are the ultimate basis for all those claims."

John Kay, "Don't always believe a balance sheet", *Financial Times*, 16 Feb. 2016, amplified the point with some data on derivatives: "Two banks, JP Morgan and Deutsche Bank, account for about 20 per cent of total global derivatives exposure. Each has more than $50tn [trillion] potentially at risk. The current market capitalisation of JP Morgan is about $200 billion (roughly its book value). ... From one perspective, Deutsche Bank is leveraged 2,000 times. Imagine promising to buy a house for $2,000 with assets of $1."

4. The Reserve Bank of New Zealand's Open Bank Resolution is a ruthless bail-in scheme that blatantly targets *all* bank deposits, which in New Zealand have no government guarantee.

scam which led to the 2008 crash.

Goldman Sachs is arguably the world's most powerful investment bank. Especially since the 1980s financial deregulation (London's Big Bang stock market reforms and the U.S. Fed's exemption of categories of over-the-counter derivatives trading from regulation), Goldman Sachs has been famous for exploiting political connections to fan speculative booms, extract maximum profits, and then get out of a given bubble before its inevitable bust, often at the expense of its own clients. This pattern was visible in the "tech" boom of the late 1990s, the sub-prime mortgage bubble of the 2000s, and the commodities bubble. Goldman has even positioned itself to become the biggest player in the next speculative bubble—carbon trading. The firm has earned its description by Wall Street observer Matt Taibbi (*Rolling Stone*, 5 April 2010) as "a great vampire squid wrapped around the face of humanity, relentlessly jamming its blood funnel into anything that smells like money". Time and again, Goldman Sachs executives become very rich, and then take up regulatory and other government positions, from which they can ensure the game is rigged to benefit Goldman Sachs and its fellow financial predators.

Goldman Sachs alumni include Bank of England Governor and FSB Chairman **Mark Carney**; former FSB Chairman and current European Central Bank (ECB) President **Mario Draghi**; **Robert Rubin**, who as U.S. Treasury Secretary worked for the repeal of Glass-Steagall; U.S. Treasury Secretary **Hank Paulson**, who bailed out Wall Street in 2008; George W. Bush's White House chief of staff during the 2008 crisis **Joshua Bolton**; Clinton Administration Treasury official **Gary Gensler**, who wrote the *Commodity Futures Modernisation Act of 2000*, excluding derivatives from regulation, and was a leading adviser to Hillary Clinton's 2016 presidential campaign; and Australian Prime Minister **Malcolm Turnbull**, who made his fortune in the Goldman-manipulated tech bubble in the late 1990s.

In 2017 a flood of Goldman Sachs veterans into the Trump Administration in the United States worked against speedy action to implement measures Trump himself had campaigned for, but Wall Street opposes. Foremost among those issues is Glass-Steagall banking separation **(p. 61)**, to protect normal lending from disruption by financial speculation. Trump had advocated Glass-Steagall during the campaign, but his Secretary of the Treasury **Steve Mnuchin**, one of six "graduates" of Goldman Sachs named to Cabinet or White House staff posts, stated during his confirmation hearings that he had no intention of reinstituting the original Glass-Steagall. A second-generation Goldman Sachs man, Mnuchin worked for 17 years at the firm, before moving on to set up his own investment firm, specialising in mortgage-backed securities. **Gary Cohn**, head of Trump's National Economic Council until April 2018, spent 25 years at Goldman Sachs, and was the firm's chief operating officer. Short-lived Trump advisers **Steve Bannon** and **Anthony Scaramucci** also had worked at Goldman Sachs, as had **Dina Habib Powell**, Trump's senior counsellor for economic initiatives during his first year in office. Head of the Securities and Exchange Commission **Walter "Jay" Clayton** was previously a partner at Sullivan and Cromwell, the powerhouse Wall Street law firm. His wife is employed at Goldman Sachs, and Clayton has represented Goldman Sachs, including during the Treasury Department bailout of Goldman Sachs under the Troubled Assets Relief Program (TARP) after the 2008 Wall Street collapse.

One of Carney's Goldman Sachs positions was as its London-based co-head of sovereign risk for Europe, Africa, and the Middle East. That meant heavy involvement with derivatives, which were ostensibly invented to "manage risk". As Canada's *Globe and Mail* reported on 25 January 2008 in a profile of Carney, at the time just appointed as governor of the Bank of Canada, "some central bank watchers fear that the naming of Mr Carney as governor symbolises the supremacy of financial markets over the interests of employment and general economic health when it comes to central banking. And there's no doubt that Mr Carney believes that markets should largely be left unhindered to determine the direction of the economy." He was, noted the paper, an outspoken critic of nations attempting to "champion industrial policies".

The Bank of England's Paul Tucker was another heavy-weight. A protégé of Robin Leigh-Pemberton, BoE governor in 1983-93, for whom he worked as principal private secretary, Tucker was the BoE's deputy governor for financial stability in 2009-13, in 2012-13 simultaneously serving as head of the BIS Committee on Payment and Settlement Systems (subsequently renamed the Committee on Payments and Market Infrastructures). Tucker had been deemed a shoo-in to take over as governor of the BoE in 2013, but a scandal over his intimate relations with certain bankers involved in rigging the LIBOR rate **(pages 25-26)**, whereas he was responsible for monitoring such things, opened the position for his BIS mate Carney.

Carney's heading both the BoE and the BIS's Financial Stability Board, established by the G20 nations in 2009 to prepare measures to avoid another 2008 crash or worse, is fitting, since the Bank of England established the Bank for International Settlements in 1930 to be a "central bank of world central banks". Reflecting long-time BoE Governor Montagu

Norman's support for Hitler and his Nazi party were the two Germans who sat on the BIS board: Baron Kurt von Schröder, an elite private banker who was one of the largest funders of Hitler's rise to power, and Hjalmar Schacht, soon to be the Nazi finance minister.[5] The BIS itself provided financial support for the Nazis, including by holding the gold they looted from throughout Europe.[6] Because of its Nazi ties, the BIS was supposed to be disbanded as part of the Bretton Woods financial arrangements at the end of World War II, but after the death of President Franklin Roosevelt in April 1945 the BoE-centred financial oligarchy managed to keep it in place.

Though based in Basel, Switzerland, the BIS has extraterritorial status and is therefore responsible to no nation. It serves as the "neutral" conduit through which the BoE orchestrates fascist international regulatory policies today. For example, the British were instrumental in the creation of the Financial Stability Board as ostensibly a G20 body (formalised at the 2009 G20 summit in Pittsburgh), but de facto an arm of the BIS. The FSB's first chairman, who had headed its pilot project, the Financial Stability Forum, since 2006, was then-Governor of the Bank of Italy Mario Draghi, fresh from three years working in London as managing director of Goldman Sachs International. Today, as head of the ECB, Draghi is helping to oversee bail-in throughout the EU, even while opening the sluice gates for huge new "quantitative easing" bailouts of Europe's TBTF banks.

Mark Astaire, vice chairman for investment banking of Barclays Bank (the very bank with which Tucker's ties got him in trouble over LIBOR), summed up the decisive role of the UK financial oligarchy in the supranational regulatory mafia, in testimony to the UK House of Commons Treasury Select Committee in early 2016. The *Telegraph* of 6 January 2016 reported: "He added that Britain generally has a strong negotiating position on financial regulations, which are created by global organisations such as the G20, Financial Stability Board and Basel [the BIS] *before being passed down to nations*." (Emphasis added.)

What about My Deposit Guarantee?

"But surely they can't grab *all* my money?!", you might protest. "What about my deposit guarantee?" The Financial Claims Scheme (FCS) in Australia is supposed to guarantee deposits up to $250,000, while the Financial Services Compensation Scheme (FSCS) in the UK guarantees deposits up to £75,000 (lowered from £85,000 in 2015). In reality, both schemes are worthless, as are similar ones in the United States and the EU.

Against some $950 billion in insured deposits, Australia's FCS makes provision for paying out only $20 billion in insurance on deposits in any single troubled bank, even though each of the Big Four has around $200 billion in insured deposits. Even APRA and the FSB admit that this level is woefully inadequate for the eventuality of a failure of any of the Big Four banks. According to the minutes of the Australian Council of Financial Regulators 19 June 2009 meeting, when discussing the deposit guarantee scheme "APRA noted ... failure by one of the four largest institutions would be likely to exceed the scheme's resources." The FSB's own 21 September 2011 Peer Review of Australia Report stated, "The limit of $A20 billion per ADI [Authorised Deposit-taking Institution] would not be sufficient to cover the protected deposits of any of the four major banks".

Moreover, the relevant authorities have admitted that they will grab the resources of deposit insurance schemes, if they deem that necessary to keep the TBTF banks afloat. The U.S. FDIC and the Bank of England, for instance, issued a joint paper on 10 December 2012, stating: "The UK has also given consideration to the recapitalisation process in a scenario in which a G-SIFI's liabilities do not include much debt issuance at the holding company or parent bank level [i.e., "bail-in bonds"] but instead comprise insured retail deposits held in the operating subsidiaries. Under such a scenario, deposit guarantee schemes may be required to contribute to the recapitalisation of the firm".

Paul Tucker pushed the point in a speech to the Institute of International Finance on 12 October 2013, just before quitting the Bank of England, stating that "if the losses are vast enough, then the haircuts imposed by the resolution authority can in principle permeate to any level of the creditor stack. In the case of insured deposits, that means Deposit Guarantee Schemes suffering losses."

5. Carroll Quigley, *Tragedy and Hope: A History of the World in Our Time* (New York: Macmillan, 1966), described the establishment of the BIS by a cartel of central bankers with Montagu Norman at its head: "In the 1920s they were determined to use the financial power of Britain and of the United States to force all the major countries of the world to go on the gold standard and to operate it through central banks free from all political control, with all questions of international finance to be settled by agreements by such central banks without interference from governments. … In addition to these pragmatic goals, the powers of financial capitalism had another far-reaching aim, nothing less than to create a world system of financial control in private hands able to dominate the political system of each country and the economy of the world as a whole. This system was to be controlled in a feudalist fashion by the central banks of the world acting in concert, by secret agreements arrived at in frequent private meetings and conferences. The apex of the system was to be the Bank for International Settlements in Basle, Switzerland, a private bank owned and controlled by the world's central banks which were themselves private corporations. Each central bank, in the hands of men like Montagu Norman of the Bank of England, Benjamin Strong of the New York Federal Reserve Bank, Charles Rist of the Bank of France, and Hjalmar Schacht of the Reichsbank, sought to dominate its government by its ability to control Treasury loans, to manipulate foreign exchanges, to influence the level of economic activity in the country, and to influence cooperative politicians by subsequent economic rewards in the business world."

6. "Defeat the Synarchy—Fight for a National Bank", *New Citizen*, April 2004, (www.cecaust.com.au/ncv5n5.html) details the Australian side of this banker-fascist alliance in the 1930s, when financiers created the mass-based fascist Old and New Guard armies to stop Labor from reasserting its tradition of national banking to revive the economy and alleviate mass suffering.

Behind Bail-in: Eugenics and Genocide

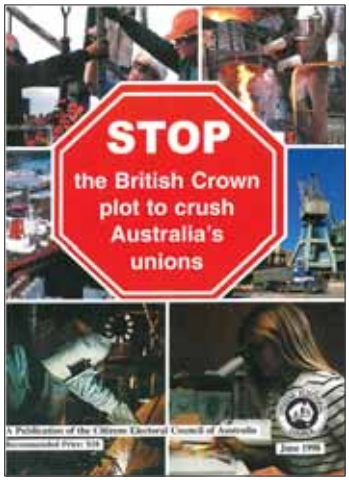
A glimpse into the policy that underlies bail-in is afforded by examining the UK's Centre for Policy Studies (CPS), whose City of London backers conceived the bail-in policy to begin with. In a January 2016 study titled *The Abolition of Deposit Insurance: A modest proposal for banking reform*, the CPS calls for the cancellation of deposit insurance altogether, as was done in New Zealand in 2011 and in Austria in 2015 under the approving eye of the EU. Since its founding in 1974, the CPS has specialised in floating seemingly outrageous "free market" proposals, which soon become law.

The Centre for Policy Studies in London, which is pushing to abolish deposit guarantees, is a front for the City of London financial powers behind bail-in. The CPS website honours its eugenicist founder Sir Keith Joseph.

The entire global think-tank apparatus of which the CPS is a key part, and which designed the present deadly policies of privatisation, deregulation, and austerity in a hundred different guises, was spawned from the Crown/City of London front organisation known as the Mont Pelerin Society (MPS). The foremost MPS offshoot, the Institute of Economic Affairs (IEA), was established in 1955 with the backing of Harley Drayton, personal financier for the British Crown. From its inception, the IEA was viciously opposed to the policies of post-war British PM Clement Attlee, which favoured the general welfare.

The IEA, in turn, spun off the CPS and the legions of similar "free market" think tanks that have dictated government policy throughout the Anglo-American world since the Thatcher regime came to power in the UK in 1979, including emphatically in Australia and New Zealand.[7] These organisations have never been anything but fronts for the Crown and its allies in the powerful, supersecretive City of London Corporation, which provides much of their copious funding. The intellectual author of this global apparatus was Friedrich von Hayek, sometime adviser to Chilean fascist Gen. Augusto Pinochet, and a chief propagandist for the pro-feudalist, pro-empire and anti-nation-state "Austrian School" of economics. The day von Hayek was made a Companion of Honour by the Queen for his work, one of only 60 people worldwide accorded that status, he proclaimed to be "the proudest day of my life".

Behind the veneer of free-market ideology promoted by these think tanks lies an even uglier reality: eugenics. The IEA's long-time leader Sir Ralph Harris was a fellow of the British Eugenics Society, and his two protégés who were in charge of the CPS, Sir Keith Joseph and Alfred Sherman, were fanatical eugenicists as well. Harris even observed in a PBS interview that Sherman, top policy designer for CPS, constantly wanted to "bring in issues like immigration or eugenics."[8] In all his policy proposals, Sir Keith Joseph was actually speaking on behalf of the City of London Corporation, for which his father had been Lord Mayor, and which he himself had served as an alderman. In the 1970s, Sir Keith had been slated to be the next head of the Conservative Party—and therefore Britain's prime minister—upon the success of the IEA/CPS "free market" coup in the Tories in 1975, in which CPS official Margaret Thatcher was a leading figure. But Joseph delivered such an overtly pro-eugenics speech in Birmingham on 19 October 1974, that the resulting uproar forced him to step aside in favour of Thatcher.[9]



In 1998 the CEC exposed the activity of the neoliberal economic think tank network in Australia. The pamphlet is available at www.cecaust.com.au/StopCrownPlot/.

7. The 1998 CEC pamphlet *Stop the British Crown Plot to Crush Australia's Unions* (www.cecaust.com.au/StopCrownPlot/) documented the extension of this policy-making think tank web in Australia.

8. Interview of Lord Ralph Harris, U.S. Public Broadcasting Service "Commanding Heights" program, 17 July 2000.

9. Though Joseph's speech was largely written by his fellow eugenics advocate Alfred Sherman, the most outrageous phrases were inserted by Sir Keith himself. These included the statement that "our human stock is threatened"—the title under which the transcript remains posted to this day. Joseph continued: "… a high and rising proportion of children are being born to mothers least fitted to bring children into the world and bring them up. ... Some are of low intelligence, most of low educational

She, for her part, famously said of Sir Keith, "I could not have become leader of the opposition, or achieved what I did as prime minister, without Keith." The eugenics scandal notwithstanding, the Queen in 1986 made Joseph a Companion of Honour, just like his idol von Hayek.

Lord Ralph Harris of High Cross, a leader of the Thatcherite revolution, was a fanatical eugenicist. Photo: Austral

Lord Harris observed about Thatcher, "We weren't Thatcherites, she was an IEA-ite". The policy of "austerity", by which the Crown and the City of London ripped up the post-war settlement of a regulated economy devoted to the common good, to which both Labour and the Conservatives had subscribed from the time of Attlee's "Old Labour" Government in 1945 until the IEA/CPS coup in the Tories in 1975, is at root a policy of eugenics, of mass murder, as the bail-in regime makes clear. With the advent of Tony Blair and New Labour, the City of London took over the Labour Party as well, a reality summarised in a 10 May 1999 *New Statesman* article about Sir Keith Joseph.[10]

Quite lawfully, given its City of London backing, the CPS provided many crucial figures of the Thatcher regime.

Many members of the City of London's CPS mafia, representing the highest levels of the blood aristocracy and financial oligarchy in the UK, have held key posts in or otherwise influenced the Tory Governments of David Cameron and Theresa May, promoting the implementation of more of the think tank's "studies"—like the one on abolishing all deposit insurance.

Some of the past and present leading lights of the board and advisory council of the Centre for Policy Studies are these City of London and Crown-connected people:

Lord Maurice Saatchi, CPS chairman, was campaign director for Thatcher in 1979 and Cameron in 2010, and has been an adviser to Australian PM and former Goldman Sachs executive Malcolm Turnbull.

Tessa Keswick, who assumed the post of CPS deputy chairman in 2004 after having been executive director of the CPS since 1995, is the daughter of Scottish aristocrat Simon Fraser, 15th Lord Lovat, and the wife of Henry Keswick, one of Britain's richest men and chairman of Jardine Matheson Holdings, historically a kingpin of the British Far East opium trade. When Keswick was brought in under the sponsorship of then-CPS chair Lord Griffiths of Fforestfach, who had headed Thatcher's Policy Unit, she was intended as "the intellectual heir to Sir Keith Joseph", as the *Independent* put it on 10 September 1995.

Lord George Bridges of Headley was formerly chairman of the Conservative Party Research Department, and the party's campaign director in 2006-07. From 2010 to 2013, he headed Quiller Consultants, PR firm for the City of London Corporation. In 2015 he became parliamentary secretary for the Cabinet Office, a post whose occupant officially (www.gov.uk) "supports the Chancellor of the Duchy of Lancaster[11] in ensuring that the government delivers its policy agenda". Since 2016 he has been parliamentary under-secretary of state for exiting the European Union.

Oliver Letwin, who was a close adviser of Conservative Prime Minister David Cameron, also served as Chancellor of the Duchy of Lancaster in 2014-16. Letwin's mother, Shirley Letwin, was a former student of von Hayek at the University of Chicago and helped establish the CPS when "Keith Joseph, Milton Friedman and other right-wing thinkers and politicians came to dinner at the Letwin residence in London."[12] A member of Thatcher's Policy Unit in 1983-86, her son Oliver has advocated CPS policies for decades within the Conservative Party (including as chairman of the Conservative Research Department). He co-authored the 1988 CPS paper "Britain's Biggest Enterprise—ideas for radical reform of the NHS [National Health Service]" with John Redwood, and the same year wrote *Privatising the World: A Study of International Privatisation in Theory and Practice* (London: Cassell, 1988).

Andrew Knight, chairman of J Rothschild Capital Management, is also a director and former chairman of Rupert Murdoch's News Corporation.

Richard Sharp, a 23-year veteran of Goldman Sachs, is a derivatives specialist worth £100 million. Despite a scandal over a conflict of interest, he was appointed in 2013 a member of the Bank of England's Financial Policy Committee. Earlier he chaired the Huntsworth lobbying and PR firm, whose subsidiary Quiller Consultants had handled promotional work for the City of London Corporation.

Lord Flight, who worked in the City of London first

attainment. … They are producing problem children, the future unmarried mothers, delinquents, denizens of our borstals, sub-normal educational establishments, prisons, hostels for drifters. … A high proportion of these births are a tragedy for the mother, the child and for us."

10. Charles Leadbeater, "New Labour's secret godfather", *The New Statesman*, 10 May 1999. Speaking of Joseph, the article began, "He was Margaret Thatcher's Mad Monk, the high priest of the free market, the first true believer who converted the future prime minister to radical right-wing ideas. … It is uncanny how many of the themes of the new Labour government were prefigured in his speeches and pamphlets (which are still available from the Centre for Policy Studies). … What new Labour ingested from Joseph above all … was the recognition that the post-war consensus, and everything that went with it, was gone for ever."

11. The Duchy of Lancaster is a major private estate of the Queen, which is formally administered by government officials such as the ones cited here.

12. Andy Beckett, "More Mr Niceguy", *Guardian*, 6 Oct. 2003.

at NM Rothschild & Sons and then at HSBC, was the Conservative Party's deputy chairman and special envoy to the City of London in 2004-05.

Lord Griffiths of Fforestfach, currently vice-chairman of Goldman Sachs International, was a director of the Bank of England for two years in the 1980s, went on to head Thatcher's Policy Unit in 1985-90, and chaired the CPS in 1991-2001.

Lord Powell of Bayswater, private secretary to Margaret Thatcher and to her successor as Tory leader and PM, John Major. Under Thatcher he helped set up the largest arms deal in history, the infamous al-Yamamah deal with Saudi Arabia, used to fund the rise of al-Qaeda and ISIS.

The Royal Policy of Eugenics

The Queen attended Margaret Thatcher's funeral in 2013, the only occasion since her coronation in 1952 upon which she has attended the funeral of a non-Royal or non-relative, excepting the funeral of Winston Churchill. Whatever minor personal spats Elizabeth may have had with Thatcher, the Iron Lady's brutal policies were Royal ones as well, in particular eugenics, which has been the guiding policy of the Crown ever since Edward VII knighted Sir Francis Galton, founder of the "science of eugenics", in 1909.

The Royal family's personal physicians served as top officials of the British Eugenics Society, the activities of which predated by some decades those of Hitler and his Nazis, for whom they otherwise had clear sympathy, not merely through the notorious Edward VIII, but through Elizabeth's own father King George VI as well, not to mention Prince Philip's own intimate family relations with top Nazi officials.

After the Second World War, when the revelation of Nazi concentration camp policies had "discredited" the overt advocacy of eugenics, the policy was repackaged under different labels, such as "world overpopulation". Writing in 1945 as chairman of UNESCO, co-founder—with Prince Philip—of the World Wildlife Fund and President of the British Eugenics Society Sir Julian Huxley lamented that Hitler's eugenics-centred policy of mass genocide had momentarily given eugenics a bad name. The policy must continue, he argued, albeit under other guises: "Thus even though it is quite true that any radical eugenic policy will be for many years politically and psychologically impossible, it will be important for UNESCO to see that ... the public mind is informed of the issues at stake so that much that is now unthinkable may at least become thinkable." In her Christmas Broadcast of 1964, the Queen herself declared "overpopulation" to be the world's single greatest problem, while Prince Philip has expressed his desire to be reincarnated "as a deadly virus in order to contribute something to solve overpopulation", as he put it to the German Press Agency in 1988.[13] Can anyone really believe that this man who has personally slaughtered untold members of endangered species, actually intended to "save the world's wildlife"?[14]

Whether they are sold through calls for ever greater "austerity" and "free market reforms", or under the rubric of ultra-radical "green" policies, the result of reconfigured eugenics policies is the same—destruction of the agro-industrial base upon which the survival of the world's population depends. Elimination of the "lower classes", whether at home or throughout the Empire, has been British oligarchical policy, from at least the time when PM William Pitt the Younger commissioned Parson Thomas Malthus to write a tract to justify eliminating the already grossly inadequate "Poor Laws", with predictably murderous results.[15]

Where Does Queen Elizabeth Stand on Bail-in?

Our brief dossier, above, on the Royal Family's eugenicist traditions and the close ties between the Crown, the City of London and the think tanks that created the bail-in scheme already suggests what the answer to that question is, but it is important to ask it specifically. Contrary to the nonsense peddled by self-deluded suckers that "the Queen is above politics and acts only on the advice of her ministers", in fact the Crown and its Privy Council sit at

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13. "The British Crown Created Green Fascism", *New Citizen*, Oct./Nov./Dec. 2011, (www.cecaust.com.au/NC_07_06.html) is a CEC special report including a detailed history of the relations of Huxley and his fellow eugenics fanatic Privy Council Secretary Max Nicholson, with the Crown.

14. *The True Story behind the Fall of the House of Windsor*, EIR Special Report, 1997, documented the murderous nature of Prince Philip and his WWF, including through such crimes as their sponsorship of the mass slaughter of game in Africa, the use of private mercenary armies to incite "divide-and-conquer" wars within and among African nations, and locking up huge swathes of the continent's raw materials in supranationally administered "game parks".

15. In his *Essay on the Principle of Population* (1798, with subsequent expanded editions), Malthus defined an imperial economic system that required mass population reduction: "All the children born beyond what would be required to keep up the population to this level, must necessarily perish, unless room be made for them by the deaths of grown persons. … [T]herefore, we should facilitate, instead of foolishly and vainly endeavouring to impede, the operations of nature in producing this mortality; and if we dread the too frequent visitation of the horrid form of famine, we should sedulously encourage the other forms of destruction, which we compel nature to use. … But above all, we should reprobate specific remedies for ravaging diseases, and those benevolent, but much mistaken men, who have thought they were doing a service to mankind by projecting schemes for the total extirpation of particular disorders."

The British East India Company (BEIC), which was the core of the British Empire, founded Haileybury College in 1805 to train its officials, and installed Malthus there as the world's first lecturer in political economy. For several decades he indoctrinated the BEIC's imperial administrators in the policies and rationale for mass genocide, which are still the essence of British imperial policy today. Implemented most notably in Ireland and India, they resulted in the deaths of tens of millions of people. Malthus's ideas are cited today by Prince Philip and his toadies as the "scientific" rationale for the Royal family's agenda of reducing the world's population to less than one billion people, including through the global green movement. Hitler credited Malthus as the source of his own mass-murderous policies of "race science".

Ann Lawler (CEC national chairman), "The Humbuggery of Charles Darwin", *New Citizen*, Oct./Nov. 2011, contains an exposition and refutation of the theories of Malthus, including as they were popularised by the quack scientist cum eugenicist Charles Darwin.

the centre of all UK and Commonwealth politics, and Her Majesty intervenes whenever and wherever she feels she has to, a reality of which Australians have had bitter experience. When Prime Minister Gough Whitlam and his "Old Labor" party came to power in 1972, it was with the openly stated intention to "buy back the farm", to regain control over Australia and its vast resources from the London-centred mining cartel typified by Rio Tinto (in which the Queen herself was the largest single private shareholder), in order to develop the continent through great projects in manufacturing, agriculture and infrastructure. Terrified at the prospect of an actually sovereign Australia, Queen Elizabeth acted from behind the mask of her Governor-General Sir John Kerr, and in conjunction with Prince Charles personally directed every step of the process leading to the sacking of Whitlam in 1975. It is also not unknown in the UK itself, to speak openly about the Crown's political interventions. In the months before his sudden resignation the year after Whitlam was sacked in Australia, British PM Harold Wilson charged that the Crown and Lord Mountbatten were out to overthrow him.

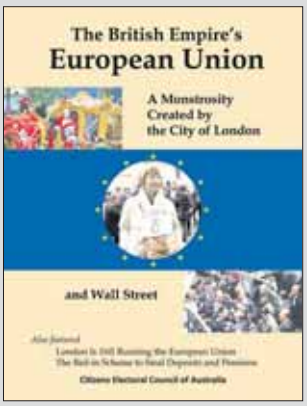
Elizabeth and Charles have also repeatedly intervened in legislation on a variety of matters, as reported in a 15 January 2013 article in the *Guardian* about the Freedom of Information request filed by legal scholar John Kirkhope. "There has been an implication that these prerogative powers are quaint and sweet, but actually there is real influence and real power, albeit unaccountable", is how Kirkhope summed up the revelations wrung from the Royals.

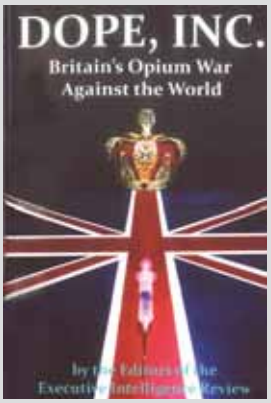
Particularly sensitive to the Crown are any matters affecting the multibillion-pound holdings of the Queen and Prince Charles, the Duchies of Lancaster and Cornwall, respectively, which are major financial powers in their own right. The councils responsible for oversight of these duchies are packed with City magnates, making them an important interface between the Crown and the City.

A case in point was the 2008 bailout of the City's TBTF banks. In their 19 October 2008 account of how PM Gordon Brown arranged the matter, "Britain's £500bn banking bail-out: The inside story of a dramatic week", the *Telegraph*'s Louise Armitstead and Philip Aldrick reported that the plan was hatched in the London offices of that old lynchpin of the Empire, Standard Chartered Bank, one weekend in October. Chosen to run the bailout, pouring untold billions into the banks, was Credit Suisse's London head, James Leigh-Pemberton. The son of 1983-93 Bank of England Governor Sir Robin Leigh-Pemberton, James had been a personal protégé of the leading London financier of the post-war period, Sir Siegmund Warburg, inventor of the Eurodollar market and of hostile corporate takeovers, as well as an architect of the EU and the simultaneous rise of the City of London as a virtually lawless, "offshore" world banking power. Many of those present, such as Brown's long-time aide and top financial adviser Baroness Shriti Vadera, had also been associated with S.G. Warburg, but bailout chief James Leigh-Pemberton wore another hat as well—that of receiver-general for Prince Charles's Duchy of Cornwall. This post reflected the Leigh-Pembertons' close relations with the Crown, dating back to the mid-19th century when a family member served as the chief legal gun for the Duchy. Often referred to as "Prince Charles's financial advisor", James by his own account is one of the big movers behind the plan for an "ultimate convergence of the U.S. and EU capital markets", which is now happening under the BoE/BIS fascist international regulatory apparatus, currently focused on bail-in.

The Australian banking regulator APRA, identified above for its dictatorial control over the bail-in process in Australia, is an unelected, secretive body established in 1998 as a de facto subsidiary of the BoE's Prudential Regulation Authority and the BIS. Its officials are appointed by the Crown through the governor-general of Australia. APRA boss Wayne Byres is a former chairman of the BIS's Basel Committee on Banking Supervision, which specified in the bland, technocratic jargon of its September 2012 "Core Principles for Effective Banking Supervision", that there must be "no government or industry interference that compromises the operational independence of the supervisor."

Further reading on the global financial oligarchy's criminalised banking empire: Nicholas Shaxson's account of offshore money operations (left) and EIR's famous exposé of drug money in the global economy, *Dope, Inc. Britain's Opium War against the World* (4th ed., 2010), are for sale at Amazon.com and Bookdepository.com. The CEC pamphlet at centre reveals the City of London's guidance of world financial affairs; download it at www.cecaust.com.au/eu.





How the CEC Disrupted the Global Bail-in Regime

Elisa Barwick
Editor-in-chief, Australian Alert Service

In 2014 the Citizens Electoral Council prevented the G20 nations from adopting the "bail-in" model for resolution of troubled banks. The previous year, 2013, had seen a rapid drive to induce nations to legislate changes to banking law to allow this to happen, following the implementation of a bail-in test case in Cyprus.

At that time Eurogroup chief Jeroen Dijsselbloem declared Cyprus the template for the whole of Europe. Well in advance of the crisis, the European Commission (EC) had put together the Cyprus plan with banking and legal experts, foremost among them the London-based International Swaps and Derivatives Association (ISDA), whose board is made up of representatives of the TBTF banks. The ISDA had already provided the EC with an assessment of its bail-in proposal in 2011, which argued that derivatives be excluded from any bail-in, as indeed has been done in several cases. That EC proposal ultimately resulted in the Europe-wide Bank Recovery and Resolution Directive (BRRD) which became active in January 2016.

The November 2011 G20 Summit in Cannes, France, had garnered agreement to the Financial Stability Board's (FSB) "Key Attributes of Effective Resolution Regimes for Financial Institutions", which committed all jurisdictions to establishing a framework for "new international standards for resolution regimes", with bail-in laws as the centrepiece. This included Australia.

In October 2013 Mark Carney, the former Bank of Canada head who by then was in charge of the Bank of England as well as the FSB, and had been an early proponent of bail-in **(page 32)**, declared that a global bail-in regime must be finalised by the November 2014 G20 Leaders' Summit in Brisbane. "The Bank of England is now working intensively with other authorities and the financial industry", Carney said. "Our aim is to complete the job by the next G20 Summit in Brisbane." In April 2014 Carney followed this up with a report on the urgency of empowering national authorities with laws to make bail-in "effective in a cross-border context", i.e., globally. Thus the 2014 G20 became the battleground for bail-in legislation for all G20 jurisdictions.

But on 10 November 2014, just four days before the Brisbane G20 summit, Carney announced: "Instead of having the public, governments, [and] the taxpayer rescue banks when things go wrong; the creditors of banks, the big institutions that hold the banks' debt—not the depositors—will become the new shareholders of banks if banks make mistakes." The announcement was a tactical retreat, forced by the campaign the CEC had run across Australia, and into the UK, to expose the intention to confiscate deposits. The ostensibly watered-down bail-in would focus on special bonds designed to convert into bank capital in a crisis—so-called hybrid securities or bail-in bonds. The FSB demanded that TBTF banks hold 16-20 per cent of the value of their assets in these bail-in-able bonds; nonetheless the CEC and its allies had forced Carney et al. to repackage their scheme.

The CEC's April/May/June 2013 *New Citizen*, issued immediately following the March 2013 bail-in of the banks in Cyprus, warned that the murderous bail-in policy would be implemented in Australia and worldwide.

Even the watered-down bail-in language still failed to win the necessary support at the 2014 summit, however, due to opposition from among emerging nations centred in the BRICS bloc (Brazil, Russia, India, China and South Africa), and also, in part, because host country Australia had failed to adopt a bail-in law beforehand, as had been expected. Instead, the summit's final communique stated that requirements for what banks must be prepared to do when in trouble would be subject to public consultation and a rigorous impact assessment before any final measure were agreed. One year later, with revised targets for emerging markets, the language was agreed to at the Antalya, Turkey G20 summit in November 2015, ahead of which Carney had forewarned that all member nations were expected to comply by legislating new rules.

CEC Interventions

The CEC ran an intensive campaign against bail-in laws throughout 2013. We informed Australians about the Cyprus bail-in beginning with a 26 March media release titled "The Cyprus option, or Glass-Steagall?", and in April warned it was coming to Australia. On 15 April 2013 the FSB reported to the G20 Finance

Ministers and Central Bank Governors that legislation for bail-in was "in train" in Australia.

In early June 2013 the *Australian Financial Review* finally reported on the drive for bail-in. CEC had issued hundreds of thousands of copies of the April/May/June 2013 *New Citizen*, "Do You Intend To Die For The Banks?", followed by the Aug/Sep/Oct *New Citizen* "'Bail-in'—the British Crown's Plot for Global Genocide". In December 2013 the CEC ran a full-page ad in *The Australian*, including signatures of support from 450 elected officials, community and trade union leaders, calling to stop bail-in and pass Glass-Steagall bank separation instead.

(Advertisement)

To the Australian Parliament:

Don't seize our bank accounts– pass Glass-Steagall!

We, the undersigned, are unalterably opposed to the legislation now being drafted to enable the "bail-in" (seizure) of Australian bank deposits as happened in Cyprus in March of this year. The stated purpose of such legislation, in Australia and internationally, is to save the "Too Big To Fail" megabanks whose unbridled speculation has caused the present financial crisis in the first place. But, as in Cyprus, such legislation will plunge this country into mass misery and even worse.

There is overwhelming evidence that legislation is being planned for Australia, as in a 15 April report of the Financial Stability Board (FSB) of the Swiss-based Bank for International Settlements which is overseeing the global bail-in process; that report explicitly states on page 5 that such legislation is "in-train" for Australia.[1] The FSB and the IMF have classified Australia's "Big Four" banks as "Systemically Important Financial Institutions", which must be saved at all costs.

The Solution

Instead of "bail-in", the Australian Parliament must pass legislation modelled upon the U.S. Glass-Steagall law which functioned so successfully from its passage in 1933 until its repeal in 1999, which separated commercial banking from investment banking. Without such a separation, banks are free to speculate with customers' deposits, which, for instance, is why Australian banks now hold some $21.5 trillion in highly risky derivatives. Numerous prominent individuals–even from the City of London and Wall Street–have spoken out to urge the reinstatement of Glass-Steagall, and legislation to do so has been introduced into both the U.S. House of Representatives and Senate, as well as in numerous other countries.

Urgent though it be, Glass-Steagall legislation is not sufficient by itself to ensure a recovery of Australia's actual physical economy. Therefore, we also demand the establishment of a National Bank modelled upon that of King O'Malley's original Commonwealth Bank, to finance the construction of great infrastructure projects as the cornerstone to rebuild Australia's once-proud manufacturing industries and its family farms.

We say: *No* to speculation and the seizing of bank accounts; *Yes*, to rebuilding Australia's physical economy, with well-paying jobs for any Australian who wants one.

Finally, we vow to help to drive from office any Australian Member of Parliament who signs his or her name to legislation for bail-in, but to likewise do all within our power to support any MP who sponsors or votes for an Australian Glass-Steagall bill, and for a National Bank.

1. Implementing the FSB Key Attributes of Effective Resolution Regimes—how far have we come?:p.5, 3.1 (1). http://www.financialstabilityboard.org/publications/r_130419b.pdf

Local Government

Cr. Serena Batik, Auburn City Councillor, Auburn, NSW
Dr. Ruaia Dickens OAM, Dep. Mayor, Blacktown City Council, Blacktown, NSW
Cr. Alan Pendleton, Blacktown City Councillor, Schofields, NSW
Cr. Nan Cowling, Coffs Harbour City Councillor, Coffs Harbour, NSW
Cr. Craig Doyle, Gosford City Councillor, Gosford, NSW
Cr. Donald Sturgiss, Southern Mulwaree Councillor, Tarago, NSW
Mr. Max Eastcott, General Manager, Greydir Shire Council, Bingara, NSW
Cr. Mick Gallagher, Hornsby Shire Councillor, Frmr Mayor, Ex-Serviceman, Mount Colah, NSW
Cr. Peter Astridge, Hunter's Hill Councillor, Hunters Hill, NSW
Cr. Bruce Morris, Kempsey Shire Councillor, Eurelia, NSW
Cr. Christopher Simpson, Kyogle Councillor, Kyogle, NSW
Cr. Ray Houston, Lismore City Councillor, Goonellabah, NSW
Cr. Peter Harle JP, Liverpool City Councillor, Hinchinbrook, NSW
Cr. Rodney McDonnell, Lockhart Shire Councillor, Urana, NSW
Cr. Ray Butchard, Muswellbrook Shire Councillor, Muswellbrook, NSW
Cr. Maxine Dooley, Narrabri Shire Councillor, Wee Waa, NSW
Cr. Richard Graham, Palerang Councillor, Bungendore, NSW
Cr. John Hugh, Parramatta City Councillor, Parramatta, NSW
Cr. Andrew Soulios, Strathfield Councillor, Strathfield, NSW
Cr. Graham Coates, Tenterfield Shire Councillor, Tenterfield, NSW
Cr. Blair Maxwell, Tenterfield Shire Councillor, Director, ECEO P/L, Tabulam, NSW
Cr. Tom Peters, Tenterfield Shire Councillor, Sandy Flat, NSW
Cr. Lenore Cooper, Uralla Shire Councillor, Uralla, NSW
Cr. Ian Kneuttberger, Urana Shire Councillor, Rural, NSW
Cr. Katarni Lipp, Walcoll Shire Councillor, Moolenore, NSW
Cr. William Hewlett, Walcha Councillor, Walcha, NSW
Cr. Lloyd Levingston, Walcha Councillor, Walcha, NSW
Cr. Lloyd Taylor, Wyong Shire Councillor, Wallarah, NSW
Cr. Greg Butler, Yass Valley Councillor, Murrumbateman, NSW
Cr. John Walker, Young Shire Councillor, Young, NSW
Cr. Phil Mitchell, Boorabine Regional Councillor, Cr. **St John Smith**, Warrabah-Wynyard Councillor, Ravenshoe, Tas.
Cr. Leigh Wilson, Campaspe Shire Councillor, Rochester, Vic.
Cr. Rosalie Crestani, City Of Casey Councillor, Hallam, Vic.
Cr. Brian Crook, Colac Otway Shire Councillor, Colac, Vic.
Cr. Ben Buckley, East Gippsland Shire Councillor, Bairnsdale, Vic.
Cr. Max Oberlander, Glenelg Shire Councillor, Portland, Vic.
Cr. Gilbert Wilson, Glenelg Shire Councillor, Portland, Vic.
Cr. Nathan Hansford, Golden Plains Shire Councillor, Bannockburn, Vic.
Cr. Angela Long, Mayor, Greater Dandenong City Council, Dandenong, Vic.
Cr. Allan Comrie, Moorabool Shire Councillor, Bacchus Marsh, Vic.
Cr. Collin Ryan, Moyne Shire Councillor, Port Fairy, Vic.
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Cr. Peter Gogol, Shire of Beverley Councillor, Beverley, WA
Cr. Lily Chen, City of Perth Councillor, Perth, WA
Cr. Allan Hill OAM JP, City of Rockingham Councillor, Rockingham, WA
Cr. Joy Stewart, City of Rockingham Councillor, Rockingham, WA
Cr. Paul Clements, City of Subiaco Councillor, Subiaco, WA
Cr. Michael Bennett, Shire President, Shire of Dardanup, Millbridge, WA
Cr. Clarrell Boyce, Dardanup Shire Councillor, Eaton, WA
Cr. Barbara Marshall, Denmark Shire Councillor, Denmark, WA
Cr. Ross Winzer, Exmouth Shire Councillor, Exmouth, WA
Cr. Geoff Stallard, Senior Teacher, Maywood College; Shire of Kalamunda Councillor, Leonardie, WA
Cr. Justin Whitten, Shire of Kalamunda Councillor, Forrestfield, WA
Cr. Alaz Myles, Katanning Shire Councillor, Katanning, WA
Cr. Mathew Ledwith, Kulin Shire Councillor, Kulin, WA
Cr. Joan Lockiewicz, Shire of Narrogin Councillor, Narrogin, Vic.
Cr. Clive Barlow, Narrogin Town Councillor, Narrogin, WA

Political Party Officials

Leon Ashby, Member of Management Committee, Frmr President Rio Carbon Tax Climate Sceptics, McMahon, ACT
Ann Lawler, National Chairman, Citizens Electoral Council of Australia, Fairley, NSW
Dr. Simon McCaffrey, NSW President and Senate Candidate for NSW, Democratic Labour Party (DLP), Hunters Hill, NSW
Mick Williams, Foundation Member/State Committee Member; Candidate for Macarthur, Katter's Australian Party; Yard Delegate, Transport Workers Union, Bradbury, NSW
Andrew Thompson, Secretary/Registered officer, Non-Controlled Parents Party (Equal Parenting), Douglas Park, NSW
Devon Collingwood, National Secretary, Australian Voice Party, Morayfield, Qld
Margaret Bell, Vice President, Australian Voice, Jensen, Qld
Rick Boekma, Board Member And Membership Officer, Australian Voice, Brown Hills, Qld
Steven Wood, National Secretary; Australian Independents, North Ipswich, Qld
Ian Dean, Secretary, Australian Reform Party, Maryborough, Vic.
Craig Isherwood, National Secretary and Senate Candidate for Vic., Citizens Electoral Council of Australia, Coburg, Vic.
Robert Barwick, National Executive Member and Senate Candidate for Vic., Citizens Electoral Council of Australia, Glenroy, Vic.
Barry Fitzsimons, Director, Rise Up Australia Party, Hallam, Vic.
Robert Butler, Solicitor; National Executive Member, Citizens Electoral Council of Australia, Chatswood, NSW
Paul Sheeran, President, Central Coast NSW Branch, Democratic Labour Party (DLP), Green Point, NSW
Stan Hurley, NSW Registrar; Senate Candidate for NSW, Family First Party, Milperra, NSW
Andrew Webber, Interim President/Policy Coordinator, One Nation NSW, Leppamie, NSW
Jim Cassidy, State Director, One Nation—NSW Division, Singleton, NSW
Mike Bloomfield, NSW State President, Candidate for Warringah, Rise Up Australia Party, North Curl Curl, NSW
Robert Holz, Candidate for Paterson, Rise Up Australia Party, Raymond Terrace, NSW
Jason Blake, Senate Candidate for NSW, The Australian Republicans, Nelson Bay, NSW
Kerry McNally, Senate Candidate for NSW, The Australian Republicans, Ashfield, NSW
Peter Flynn, Candidate for Lingiari, Citizens Electoral Council of Australia, Humpty Doo, NT
Mile Starikovic, Senate Candidate for NT, Citizens Electoral Council of Australia, Tiwi, NT
Vernon Work, Senate Candidate for NT, Citizens Electoral Council of Australia, Wanguri, NT
Alfred Gould, Candidate for Lingiari, Independent, Alice Springs, NT
Doug Boag, Senate Candidate for Qld, Australian Protectionist Party, Salisbury, Qld
Rick Heyward, Senate Candidate for Qld, Australian Protectionist Party, Sandsby Creek, Qld
Nick Contarino, Candidate for Lilley, Citizens Electoral Council of Australia, Nimstead, Qld
Wayne Crummert, Candidate for Moreton, Citizens Electoral Council of Australia, Sunnybank, Qld
Geoffrey Cornell, Candidate for Petrie, Citizens Electoral Council of Australia, Chermside, Qld
Frank Karg, Candidate for Oxley, Democratic Labour Party (DLP), Forest Lake, Qld
Sheila Vincent, Senate Candidate for Qld, Democratic Labour Party (DLP), Toowoomba, Qld
Andrew O'Shea, Deacon, Seventh Day Baptist Church; Candidate for Bowman, Family First, Beenleigh, Qld
Dan Vogler, Candidate for Kennedy, Family First Party, Mareeba, Qld
Jim Cornwell, Candidate for Dickson, Katter's Australian Party, Kurwongbah, Qld
Chris Whitty, Candidate for Groom, Katter's Australian Party, Wilsonton, Qld
Alan Rutland, Senate Candidate for Qld, No Carbon Tax Climate Sceptics, Chambers Flat, Qld
Deborah Gravenall, Candidate for Gippsland, Palmer United Party, Robins, Qld
Jim MacAnally, Dir. MacAnally Group P/L; Candidate for Fadden, Palmer United Party, Bundall, Qld
William Rogan, Candidate for Rankin, Palmer United Party,

Unions

Paul Cousins, Federal President, Australian Licenced Aircraft Engineers Association, Bexley, NSW
Kevin Bracken, Victorian Branch Secretary, Maritime Union of Australia, Port Melbourne, Vic.
Theo Gamaratsopoulos, Assistant Secretary, Plumbing Trades Employees Union (NSW Branch), Alexandria, NSW
Keith Ryder, Frmr. Vic. State Secretary, Australian Stevedoring Supervisors Assoc; Candidate for Goldstraw, Palmer United Party, Hampton East, Vic.
Ivan Walton, Frmr. State Secretary, AMWU - Glass & Container, Bassendean, WA
Bill Gauna, Frmr. Secretary, GEPU, Electrical Division (WA), Middle Swan, WA
Laurence Pewtress, Frmr. President/Convenor, AMWU-Pingara Branch; Frmr. Shire of Murray Councillor, Pinjarra, WA
Alessio Mulipola, Organiser, AMWU Victorian Branch - Metals & Engineering, Carlton, Vic.
Jason Murphy, Delegate, MUA, Wagait Beach, NT
William Ingney, Delegate Assistant, Raoussouna Mill Qld, AWMU, Mackay, Qld
Peter Ong, Delegate, Electrical Trades Union, Murrumba Downs, Qld
Mark Penny, Trainer/Delegate, Electrical Trades Union (Qld), Red Hill, Qld
Nick Steele, Senior Delegate, Electrical Trades Union (Qld), Beenleigh, Qld
Graham Charters, Delegate, ETU, Mackay, Qld
Dennis Pukallus, Delegate, Queensland Public Sector Union, Eagleby, Qld
Alan Pragoroski, Delegate, United Voice, Port Melbourne, Vic.
Gary Harmeer, Organiser, Australian Workers' Union, Leichhardt, WA
Donald Bower, Frmr. Delegate, Amalgamated Metal Workers & Shipwrights Union, Wallsend, NSW
Milo Maskovic, Frmr. Executive, Vehicle Builders Union, Western Branch, Fortitude Valley, Qld
Barry Schuetz, Union Official (Retired), United Voice, Port Hughes, SA
Leon Hoskins, Frmr. Shop Steward, AMWU, Knoxfield, Vic.
Simon Hall, Frmr. Occ Health & Safety Rep, Australian Bureau of Statistics, Calwell, Vic.

Anthony Grigor-Scott, Minister of Gospel, Bible Believers', Cumabubula, NSW
Denis Barnard, Senior Pastor, Baptist Church Cooraibia, Qld
Pastor Mike Brownhill, Church Pastor, Elanbarf, Qld
Maurice Schurr, Frmr. Secretary, Point Pass Lutheran Church, Eudunda, SA
Valerie Russenschuh, Minister of Religion, Taroanda, SA
Peter Olney, Founder & Secretary, BMC Ministries Inc. Mitcham, Vic.
Amila Jayasingha, Civil Engineer, Taxi Driver, Sri Lankan Community, Forest Lake, Qld
Jeanette Stawhr, Civil Marriage Celebrant, Barmera, SA
John Campbell, Community TV Producer, Metro-TV Inc., Footscray North, Vic.
Gordon Hunter, Primary Producer, Gulargambone, NSW
Erwest Kilto, Farmer & Grazier, Tallimba, NSW
Anne Shungine, Grazier, Yanco, NSW
Peter Nagy, Director/Consultant, My Technology, Ashfield, NSW
Noel Stratford, Dairy Industry Field officer (Retired), Mount Gambier, SA
Tony Barry, Actor/Community Activist, Billinudgel, NSW
Carolyn Wilkinson, Author, Howard Springs, NT
Steven Hunter, Illustrator/Cartoonist, Buderim, Qld
Andrew Chalkley, Author, Happy Pill, (Box Company), North Perth, WA
Dr. Bernardine Atkinson, 21st Century Environmental Trust Fellow; Director, Specialist Writing Services, Lake Boloc, Vic.
Brendan Rolfe, Assistant Operator - Water & Waste Water Treatment, Mackay Regional Council, Mackay, Qld
Peter & Maida Irene-Smith, Retired Farmers, Smithton, Tas.
Gerry Verheyen, Farm Manager, G & A Verheyen P/L, Jandabup, WA
Allan Field, Wheat Farmer & Bulldozing Contractor, Wuggarlene, WA
Stuart Smith, Farmer; Frmr Senate Candidate for WA, Citizens Electoral Council of Australia, Pingelly, WA
Dr. Carmen Tarnberg, Director, Bendigo-FL, Colbinai, NSW
Phillip Rowley, Postal Delivery Officer, Australia Post, North Richmond, Government, NSW
Alistair Welch, Business Owner, Christian Traders, Cundletown, NSW

The CEC's ad against bail-in and for Glass-Steagall, signed by 450 prominent Australians, appeared in the *Australian* in December 2013.

On 13 December 2013 Reserve Bank of Australia head Glenn Stevens told the *AFR* that in order to prevent the public purse having to recapitalise banks in a crisis, "The international push is also going towards so-called 'bailing-in'", which he expected to be considered by the upcoming Financial System Inquiry (FSI). At a 10 June 2014 banking symposium in San Francisco, Stevens announced that Australia was "highly supportive" of Carney's efforts, describing bail-in as "an appealing idea".

The CEC turned the blowtorch of its anti-bail-in campaign on the FSI throughout 2014, generating, in two rounds of public consultation, over 700 submissions against bail-in and in favour of full, Glass-Steagall separation of the Big Four TBTF banks. This flood of submissions attracted mainstream media attention.

As intended, the FSI endorsed the Australian government's push for bail-in. At its conclusion, the Inquiry announced that it was time for the government to revive its plans to give APRA new crisis management powers, as first raised by the Gillard Government in September 2012 then put on hold in 2013 to await the result of the FSI.

Foreshadowing the 2017 APRA bill **(page 41)**, the 7 December 2014 FSI Final Report stated that it "strongly support[ed] enhancing crisis management toolkits for regulators". In its own FSI submission, APRA had invoked the BIS/G20 resolution framework, saying the proposed new powers "would significantly enhance APRA's resolution toolkit, and align APRA's crisis resolution powers more closely with international standards and best practice". It cited the government's 2012 consultation paper, "Strengthening APRA's Crisis Management Powers", which pointed to the FSB bail-in demand.

Other G20 Jurisdictions

Another proof of the success of the CEC's intervention in Australia is that most other G20 jurisdictions passed bail-in laws far earlier. The U.S. powers were introduced as part of the *Dodd-Frank Wall Street Reform and Consumer Protection Act* in July 2010.

New Zealand's Open Bank Resolution policy was proposed in March 2011 and finalised in June 2013. It allows "a distressed bank to be kept open for business, while placing the cost of a bank failure primarily on the bank's shareholders and creditors", according to the Reserve Bank of New Zealand, which is explicit that creditors include depositors.

France passed bail-in laws in July 2013, and the aforementioned BRRD took effect across the EU on 1 January 2016. The UK put the powers into effect from 1 January 2015.

This story demonstrates that the fight against APRA's bail-in powers has implications well beyond Australia, because the law is part of a larger push for a new form of global financial order that must be uniform across the world, to ensure that no one nation's actions can threaten the $1.2 quadrillion global derivatives bubble. Rolling back the APRA bill in Australia—whose financial system as a whole is officially defined as "systemically important"—can derail that agenda, and even in countries where bail-in is firmly in place, or has already been used, it can still be reversed.

Shut Down the Fraud of APRA

During the CEC's 2014 campaign to block the adoption of bail-in in Australia and the G20 group as a whole **(page 39)**, several things became clear to our researchers and organisers:

• The Australian Prudential Regulation Authority (APRA), established in 1998 on the model of the UK's Prudential Regulation Authority, is an arm of the international banking cartel centred on the Bank of England (BoE) and the Bank for International Settlements (BIS) **(page 26)**;

• APRA, considering itself beholden only to its international masters, claimed the authority to impose bail-in by decree, without legislation **(page 30)**;

• Nonetheless, the Financial Stability Board (FSB) of the BoE/BIS apparatus continued to insist that it was crucial for every major country to pass enabling laws for bail-in, and had stated as early as in its 15 April 2013 report "Implementing the FSB Key Attributes of Effective Resolution Regimes—how far have we come?", that such legislation was "in train" in Australia.

No one in government would reveal what that legislation was, and no one queried in Parliament was aware of it. CEC research uncovered key details of the development of an Australian bail-in policy, but not the content or the status of the legislation mentioned in the FSB report. The Department of the Treasury stonewalled all enquiries, and the government denied any plans to bail in deposits.

Fast forward to August 2017. In a Friday afternoon press release—timed to minimise publicity—Treasurer Scott Morrison announced a draft bill to give crisis-resolution powers to APRA. A sharp-eyed CEC veteran of the 2013-14 mobilisation found within the cumbersome, 174-page document the language showing that this bill, the Financial Sector Legislation Amendment (Crisis Resolution Powers and Other Measures) Bill 2017, was none other than the bail-in legislation that the FSB had noted was "in train" in 2013—the measures to bring Australia into line with the FSB's bail-in template, "Key Attributes of Effective Resolution Regimes" **(page 29)**.

The CEC immediately began mobilising to expose this APRA crisis-resolution bill, stop it from being sneaked through Parliament, and defeat it. Many hundreds of everyday Australians responded to the CEC's call to action and contacted their members of Parliament, often finding that the MPs had no idea the legislation existed. Readers may visit the Media Release page of the CEC's website (www.cecaust.com.au/mediareleases/) to read the releases from 5 September 2017 through the end of the year, and into 2018, to see how the mobilisation unfolded and escalated.

By late November 2017 (media release of 21 Nov. 2017), the sheer scale of calls and emails to MPs had forced referral of the bill to the Senate Economics Legislation Committee for inquiry, an important interim victory which ensured the bill could not be railroaded through Parliament quickly. It was not voted up until February 2018, and the CEC catalysed and led a nationwide debate, giving the bill far greater scrutiny than the government had intended. In response to the Senate committee's invitation for public submissions, the CEC's campaign generated upwards of 2,000 submissions by the 18 December deadline.

The CEC's main submission appears on **pages 42-47**.

As the fight over bail-in powers for APRA—and over the behaviour of the banks themselves—took shape, experts and insiders, including former APRA officials and bankers, have stepped forward and confirmed the CEC's warnings about the legislation and APRA. They emphasised APRA's extreme secrecy, and accused the agency of protecting banks, rather than regulating them.

John Dahlsen, former chairman of Woolworths and a director of ANZ Bank for 20 years, was moved to release to selected journalists his 2016 paper "Banks—I See Things Differently", which termed APRA "the monster that protects the banks from disaster". In his no-holds-barred attack on Australia's banks and their regulator, Dahlsen wrote, "The inner world of banking is private, secretive, murky and dark, and bank reputation and ranking is low.… Conflict is rife and often abused, and Chinese walls are illusory. Insider trading is subtle and obtuse and seldom reported. So long as banks collude and are all the same, the risk of concentration for Australia is acute.… APRA is not concerned with customers and competition because they are not in their remit. Banks trade in parallel and are all the same. You could change the labels and no one would notice. They defend their business walls from all intruders and nothing gets through because of APRA."

In the CEC's submission, Point 4 illustrates APRA's complicity with the banks, detailing how APRA authorised and incentivised the banks to create the dangerous speculative bubble in the housing market that is the greatest threat to Australia's financial system. Contributions from Dr Wilson Sy and a second former APRA analyst follow on pages **47-52**. When Prime Minister Malcolm Turnbull announced 30 November 2017 that a banking royal commission would convene, but that APRA would be excluded from scrutiny, Dr Sy fired off a letter to members of Parliament, warning of the imminent grant of "unwarranted powers" to APRA. That letter is reprinted here, followed by Dr Sy's Submission to the Senate Economics Legislation Committee Inquiry. The articles by the second former APRA analyst, published in the *Australian Alert Service* in 2017 and excerpted here, expose these activities of the agency, with a focus on the blind eye it turns to wrongdoing by banks, and its role in building up the mortgage bubble.

Essentially, APRA will be the cause of the financial crisis that the new law gives it powers to "resolve".

CEC Submission to the Senate Economics Legislation Committee Inquiry: Replace APRA and 'Bail-in' with Glass-Steagall Separation of Australia's banks

The document has been slightly edited for this publication.

Financial Sector Legislation Amendment (Crisis Resolution Powers and Other Measures) Bill 2017 [Provisions]
Citizens Electoral Council
18 December 2017

Terms of reference[1]
1. To understand exactly what capital instruments are covered by the Bill.
2. To understand what consultation process APRA would be required to undertake before making determinations under the Bill.
3. To understand what power the executive and/or Parliament is ceding to APRA.
4. To understand the possible implications to market concentration in the banking sector.

Submission prepared by:
Research Director Robert Barwick
National Secretary Craig Isherwood
The authors are willing to appear before the committee to answer questions on this submission.

Appendix A: Warning to Australian investors: Beware hybrid securities, aka 'bail-in' bonds!
Appendix B: Europe to extend 'bail-in' to guaranteed deposits—don't give crisis powers to banking technocrats!
Attachment: *Proposal for Glass-Steagall separation of Australia's banking system,* Citizens Electoral Council of Australia, August 2017.

[*The Appendices are not included in this pamphlet. They may be accessed with the full Submission at www.aph.gov.au/Parliamentary_Business/Committees/Senate/Economics/CrisisResolutionPowers/Submissions. The Attachment is on* ***page 62****.*]

The Australian Parliament is being asked to legislate for so-called bank "bail-in" powers for the Australian Prudential Regulation Authority (APRA), through the Financial Sector Legislation Amendment (Crisis Resolution Powers and Other Measures) Bill 2017. Treasurer Scott Morrison presented this aspect of the bill as "technical" amendments, but parliamentarians cannot assess their implications without first understanding the nature and intent of the global bail-in system that has been developed since the 2008 financial crisis.

The September 2008 bankruptcy of the Wall Street/City of London investment bank Lehman Brothers, and subsequent chain-reaction meltdown of insurance giant AIG, a host of other mega-banks in the USA and Europe, and hundreds of regional and smaller U.S. banks, led to massive bank bailouts by governments and central banks. The U.S. government put up US$700 billion for an emergency rescue package called the Troubled Asset Relief Program, the UK government nationalised two of its biggest banks, and other governments made similar interventions; in Australia the Rudd Government guaranteed the banks' overseas borrowings and domestic deposits. On top of this, the world's major central banks, the U.S. Federal Reserve, Bank of England, European Central Bank, and Bank of Japan, commenced electronically "printing" enormous quantities of money through quantitative easing (QE), now up to US$12 trillion, to prop up the global banking system. The justification was that the collapse of Lehman Brothers, which started in the City of London, had demonstrated that some banks were too big to fail (TBTF).

The taxpayer-funded bailout of the banks was deeply unpopular, not least because the banks are closely identified with the neoliberal economic doctrines of free markets and self-sufficiency, which didn't apply to them in the crisis. Partially in response to this reaction, governments at the London G20 summit in April 2009 charged the Financial Stability Board (FSB) based at the Bank for International Settlements (BIS) in Basel, Switzerland, with developing a system for resolving financial crises that would allegedly ensure financial stability, end TBTF, and not require government bailouts. The result was the FSB's "Key Attributes of Effective Resolution Regimes", announced in October 2011. The centrepiece of the FSB's resolution system was the new concept of bail-in, which mandated the "write down" of a failing bank's liabilities to unsecured creditors, including depositors, to the "extent necessary to absorb the losses". The FSB chairman who oversaw the development of the bail-in policy, Mario Draghi, then took over as chairman of the European Central Bank (ECB), and in March 2013 forced the nation of Cyprus to be the first to bail in deposits in its banks, with devastating consequences for the Cypriot people and economy.

Conflict of Interest

The FSB's bail-in regime represents a massive conflict of interest. It is, in fact, a bankers' solution to the financial

1. The inquiry was called by senators from the Australian Greens, who defined these four topics for it to address.

crisis that bankers caused! The original notion of bail-in was invented by two CS First Boston derivatives salesmen, Paul Calello and Wilson Ervin, as they participated in the infamous September 2008 weekend lock-up at the headquarters of the New York Federal Reserve to work out how to respond to the collapse of Lehman Brothers. Their idea had nothing to do with the FSB's ostensible purpose of averting bailouts and ending TBTF. By their own admission they were simply concerned with devising a way that future TBTF banks like Lehman Brothers could be stopped from declaring bankruptcy, so they wouldn't trigger knock-on collapses among their derivatives counterparties. Their solution was not to restrict derivatives speculation, but to make a failing bank's unsuspecting creditors absorb the losses, so it would remain solvent.

From this inception of the idea, the bail-in policy was developed by the Bank of England and the BIS-FSB. The process was dominated by individuals with reputations for representing the interests of the banking system. First and foremost was Mark Carney, who became chairman of the FSB in 2011 and Governor of the Bank of England in 2013. Carney is a former Goldman Sachs executive and, befitting that bank's reputation, a devotee of the free-market ideology that drove the financial deregulation which unleashed the speculation that caused the GFC. Upon his appointment as Governor of the Bank of Canada in 2008 Toronto's *Globe and Mail* had commented that "there's no doubt that Mr Carney believes that markets should largely be left unhindered to determine the direction of the economy".

Other key individuals in the development of bail-in include: former deputy governor of the Bank of England Paul Tucker, whose closeness to the private banks became a scandal in 2012 when the LIBOR rate fixing was exposed; and the aforementioned Mario Draghi, current chairman of the ECB and Carney's predecessor as FSB chairman during its development of the bail-in policy, who, like Carney, is also a former Goldman Sachs executive.

Unworkable

Aside from being a conflict of interests, bail-in cannot, and does not, work to resolve banking crises. In April 2013, following the Cyprus bail-in, the former deputy director of Japan's Ministry of Finance, Daisuke Kotegawa, denounced the bail-in policy as "stupid" for destroying the trust that depositors place in banks. Mr Kotegawa was eminently qualified to comment, as he had successfully overseen the resolution of a serious banking crisis in Japan in 1999 in a way that averted a global derivatives meltdown. Speaking to a Schiller Institute conference in Frankfurt, Germany, he said, "They have been trying to introduce a system whereby depositors are also asked to lose part of their deposits. This will completely destroy confidence in the financial system, and thereby aggravate the financial crisis. ... *It violates the basic notion of how a bank can exist and operate.*"

The European experience of bail-in has borne this out. The announcement of bail-in in Cyprus sent such a shock wave of panic throughout the rest of Europe, where many other banks were similarly failing, that the EU authorities were forced to make a partial retreat, and only bail in "uninsured" deposits above €100,000. Subsequent European bail-ins—in Italy, Portugal and Austria—did not apply to deposits per se, but to forms of hybrid securities and contingent-convertible bonds which disproportionately affected pensioners who had invested their money in those instruments under the false assurance that they were as secure as deposits. Consequently, the bail-ins were enormously damaging to confidence, and government bailouts were still required. Despite, but actually because of, the widespread use of the bail-in tool, Europe's banking crisis remains unresolved to this day.

Glass-Steagall

Bail-in is more than stupid and unworkable—it should be regarded as a financial crime. It destroys the financial security of innocent bank customers and investors, but allows the banks to continue to engage in the dangerous financial speculation that caused the 2008 crisis, using their customers' deposits. Its actual intention was not to avert bank bailouts, as claimed, but to avert any moves by government to respond to the financial crisis by restoring the Glass-Steagall separation of commercial banks that hold and lend deposits, from investment banks, insurance companies and other financial services that speculate in financial securities.

The 66-year record (1933-99) of the U.S. *Glass-Steagall Act,* under which there were no systemic banking crises in the United States, proves that it would achieve all of the FSB's ostensible goals of genuine financial stability, and the end of TBTF banks and the need for expensive taxpayer bailouts, while providing absolute protection for depositors, instead of sacrificing deposits. However, because it would do so by stopping banks from effectively gambling with deposits, the banks vehemently oppose it.

From the onset of the financial crisis, there was a concerted push to restore Glass-Steagall in the USA, and establish it worldwide, which the banking industry lobbied very hard to derail. In the United States, Wall Street banks helped to draft that country's complex post-crisis financial reform legislation, the 848-page *Dodd-Frank Act* (2010), to ensure it didn't restore Glass-Steagall. This required complicated provisions that were claimed would achieve the same outcome as Glass-Steagall, but without requiring full separation. Among these were bans on insured deposit-taking institutions trading in derivatives "swaps", and on banks trading on their own

account (the "Volcker rule"). Even these limited restrictions were too much for the banking industry, however. The ban on swaps was rescinded in 2014, following a Wall Street lobbying offensive led by JPMorgan Chase, and now the same banks are lobbying to end the Volcker rule.

In the United Kingdom, the push for Glass-Steagall attracted enormous political support. It was led by Lord Nigel Lawson, the Chancellor of the Exchequer in the Thatcher Government in 1986 who had overseen the so-called Big Bang deregulation of the financial sector, which ended the UK's informal separation of commercial and investment banking. Lord Lawson recognised that the 2008 crash proved that allowing commercial and investment banking to merge had been a mistake. The support was so strong that the government of Conservative Prime Minister David Cameron intervened to protect his City of London donors from Glass-Steagall, by appointing the Vickers inquiry, which recommended the limited "Claytons" separation called ring-fencing, instead of full-blown Glass-Steagall. Nevertheless, 445 members of the House of Commons and House of Lords voted to amend the *Financial Services (Banking Reform) Act 2013,* which legislated ring-fencing and bail-in, to enact full Glass-Steagall separation. The amendment was only narrowly defeated (in the House of Lords, by a mere nine votes), following intense lobbying by banks.

It is significant that the supporters of Glass-Steagall include many experienced former bankers, who took stock of the 2008 crisis and acknowledged that merging commercial and investment banking had been a mistake. These include the two former leaders of Citigroup, Sandy Weill and John Reed, who organised the merger of Citibank and Travellers Insurance in 1998 which was used to convince the U.S. Congress to repeal Glass-Steagall. In the UK, former investment banker Lord Forsyth of Drumlean noted that only Glass-Steagall, not ring-fencing, would stop banks from speculating with deposits, because "bankers are extremely adept at getting between the wallpaper and the wall. If they can find a way to get around something they will." In Australia, the former CEO of National Australia Bank, Don Argus, said in *The Australian* of 17 September 2011: "People are lashing out and creating all sorts of regulation, but the issue is whether they're creating the right regulation.... What has to be done is to separate commercial banking from investment banking."

Unless Glass-Steagall is implemented in Australia and worldwide, bail-in will only be the beginning, because it doesn't address the reckless speculation in debt and toxic and fraudulent derivatives instruments that is driving financial crises. The financial system will lurch from crisis to worse crisis, and the banking industry will extort from governments increasingly complicated and convoluted measures to prop it up, which will cost everyday citizens dearly. This is not an issue for banking technocrats, but for elected representatives, to intervene and establish clear and rock-solid financial regulations that protect the functioning of the real economy and the financial security of their constituents.

Comments on Terms of Reference

1. To understand exactly what capital instruments are covered by the Bill

The bill enhances APRA's powers to convert or write off, a.k.a. bail in, capital instruments. These instruments include hybrid securities that have contractual bail-in provisions, which are counted as Additional Tier 1 and Tier 2 capital. Under so-called Basel III regulations from the BIS, APRA has already adopted the need for AT1 and T2 capital to be bailed in, in its Banking (Prudential Standard) Determination No. 1 of 2014. This bill removes any legal obstacles to such a bail-in, as the explanatory memorandum states: "5.11 The Bill amends the Industry Acts to provide increased certainty in relation to the conversion and write-off of capital instruments, including amendments to provide that ... conversion or write-off can happen despite any impediment there may be in ... *any domestic or foreign law*". (Emphasis added.)

This provision alone is grounds for Parliament to reject this bill, for the reason that it puts at risk hundreds of thousands of Australian retail investors. These are unsuspecting so-called "mum and dad" investors to whom APRA has allowed the banks to aggressively sell hybrid securities. APRA's intentional complicity in this is a scandal, which proves it is not a fit regulator. As the CEC revealed in an 8 July 2016 release, "Warning to Australian investors: Beware hybrid securities, a.k.a. 'bail-in' bonds" (Appendix A)[2], the Bank of England forbids UK banks from selling equivalent hybrid securities to UK retail investors because they are unlikely to understand their risks, yet APRA has allowed Australia's banks to target such investors, preying on their ignorance with offers of high interest rates of sometimes around 8 per cent.

The CEC is not alone in this warning. The now former Australian Securities and Investments Commission (ASIC) Chairman Greg Medcraft has called the exposure of Australian retail investors to hybrid securities a "ticking time bomb". In testimony to the Senate Economics Legislation Committee on 26 October 2017, Mr Medcraft revealed that Australian banks have sold $43 billion worth of hybrid securities, mostly to retail investors, and in parcels as small as $50,000. This means that upwards of half a million Australian retail investors, in the form of self-funded retirees and self-managed superannuation fund operators, could be holding these instruments.

Mr Medcraft implied what the CEC is charging: APRA has set up these retail investors to unknowingly

2. Appendix A is available as a media release, dated 8 July 2016, at www.cecaust.com.au/mediareleases/

absorb the banks' losses. "There are two reasons we believe a lot of the retail investors buy these securities", he said. "One is they don't understand the risks that are in over 100-page prospectuses and, secondly—and this is probably for a lot of investors—*they do not believe that the government would allow APRA to exercise the option to wipe them out in the event that APRA did choose to wipe them out.* ... Basically, they can be wiped out—there's no default; just through the stroke of a pen they can be written off. For retail investors in the tier 1 securities—they're principally retail investors, some investing as little as $50,000—these are very worrying. *They are banned in the United Kingdom for sale to retail.* I am very concerned that people don't understand, when you get paid 400 basis points over the benchmark, that is extremely high risk. And I think that, because they are issued by banks, people feel that they are as safe as banks. Well, you are not paid 400 basis points for not taking risks...." (Emphasis added.)

Deposits?

It is bad enough therefore that this bill clears the legal obstacles to APRA ordering the bail-in of hybrid securities. The question is: does the broad language of the bill allow APRA to also bail in bank deposits? For a number of years, the government has forcefully denied this possibility; however, before considering the terms of the bill in this regard, understand why it is a real suspicion.

All over the world, where governments have legislated bail-in regimes, *they apply to deposits.* As stated, in Cyprus in March 2013 bail-in at first applied to *all* deposits, but under fierce opposition the EU authorities retreated slightly to bail in only uninsured deposits over €100,000. On 25 March 2013 the head of the Eurozone finance ministers Jeroen Dijsselbloem said the Cyprus resolution would become the "template" for all of Europe. By 1 January 2016, the EU had enacted a Europe-wide bail-in regime called the Bank Recovery and Resolution Directive (BRRD), which applies to all deposits above €100,000 in the EU, and above £75,000 in the UK. The pledge not to touch insured deposits is already being watered down, however. On 8 November 2017 Mario Draghi's ECB proposed to amend the BRRD to allow a "pre-resolution moratorium" freezing the withdrawal of all deposits, for the simple reason that, due to their experience, bank customers will rush to withdraw their deposits if they know the bank is going to be put through "resolution" (Appendix B)[3].

In the United States, the *Dodd-Frank Act* provides for the bail-in of deposits over US$100,000. And in New Zealand, the Reserve Bank of New Zealand's Open Bank Resolution (OBR) bail-in regime allows for the bail-in of *all* deposits, as NZ has no deposit guarantee. The RBNZ calls depositors "investors" who have "accepted the risks". It is important to note that the banks to which NZ's OBR applies are subsidiaries of Australia's major banks!

So, if the government is to be believed, even though bail-in applies to deposits in virtually every other jurisdiction with bail-in, including to the deposits in the NZ subsidiaries of Australia's banks, it will not apply to Australian bank deposits.

The language of the bill does not reinforce this assurance. Under Section 11CAA Definitions, it states: In this Subdivision:

> 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* (emphasis added)

Under the *Banking Act 1959,* APRA can determine prudential standards without the need for new legislation. Section 5.14 of the explanatory memorandum raises the possibility that a future determination of prudential standards could involve new definitions of capital for the purpose of conversion or write-off. It states: "Presently, the provisions in the prudential standards that set these requirements are referred to as the 'loss absorption requirements' and requirements for 'loss absorption at the point of non-viability'. The concept of 'conversion and write-off provisions' is intended to refer to these, *while also leaving room for future changes to APRA's prudential standards, including changes that might refer to instruments that are not currently considered capital under the prudential standards.*" (Emphasis added.)

What guarantee is there in the bill that "any other instrument" could not in the future be defined in the prudential standards to include deposits? Since 2003 APRA has had the power to order a bank not to repay deposits under certain conditions, including if, as specified in the *Banking Act:* "there has been, or there might be, a material deterioration in the body corporate's [bank's] financial condition"; or "the body corporate is conducting its affairs in a way that may cause or promote instability in the Australian financial system". The bill strengthens this section of the *Banking Act.* A legal analysis of the bill commissioned by the CEC noted: "It is a relatively smaller step to then convert or write-off what the ADI has been prohibited from paying out [i.e. deposits]. ... Unless there was a prohibition in the Bill against the making of any determination to declare deposits to be capital capable of conversion or write-off, the worry would be that APRA could make such a determination."

Financial Claims Scheme

The government repeatedly claims to constituents who are concerned about the bail-in threat that they are protected by the Financial Claims Scheme, which guarantees deposits per individual per authorised deposit-taking institution (ADI) up to $250,000. However, even

3. Appendix B is the release dated 29 November 2017, at www.cecaust.com.au/mediareleases/.

if only deposits over $250,000 were bailed in, that would still be destructive to many businesses, charities, and public agencies, and hence to confidence in the banking system. Moreover, there is a very real question of whether the FCS is any guarantee at all. Both the 19 June 2009 meeting of Australia's Council of Financial Regulators, which includes APRA, ASIC and the Reserve Bank, and the FSB in its 21 September 2011 "Peer Review of Australia" noted that the government's $20 billion provision per ADI would not be sufficient to honour its deposit guarantee in the event of a failure of any of the Big Four banks.

2. To understand what consultation process APRA would be required to undertake before making determinations under the Bill

Introducing the bill into Parliament on 19 October 2017, Treasurer Scott Morrison acknowledged it is intended to bring Australia into compliance with the BIS-FSB bail-in regime. It will enhance the "efficacy of the legal framework for the conversion of capital instruments under the Basel III framework", he said, and will "ensure that Australia's regulatory infrastructure is in line with international best practice".

The BIS is a secretive, supranational institution known as the "central bank of central banks", with a dark past that includes collusion in Nazi war crimes. Its Basel headquarters boasts the same level of legal and political autonomy as the United Nations Organisation in New York City, and it functions as a financial authority outside of the authority of national governments. Through its Basel process of hosting the deliberations of central banks and financial regulators, the BIS directs banking regulation worldwide. It insists that the national regulators which enforce its directives, such as APRA, must be "independent" of governments. This is expressed in the BIS's Basel Committee on Banking Supervision's "Core Principles of Effective Banking Supervision"—issued in 2012 when current APRA chairman Wayne Byres was the Secretary General of the committee—which stated that there must be "no government or industry interference that compromises the operational independence of the supervisor".

In a financial crisis, when the proposed resolution powers will be used, APRA and the BIS-FSB structure are hard-wired to represent the interests of the banks. Former ASIC Chairman Greg Medcraft observed this fact in an interview published in the 13 November 2017 *Australian Financial Review:* "The role of APRA is to protect the entity, the bank, and ASIC's role is to protect consumers and investors. Sometimes what may be good for an entity and its profitability and its soundness may not be particularly good for consumers and investors." Democratic governments, however, would necessarily be mindful of the impact of their actions on the public. Extreme resolution measures such as bail-in are enormously damaging to the public; European governments which have been forced to order bail-ins have subsequently been voted out of office.

From this it can be concluded that APRA would regard Parliament as a potential obstacle to resolution, and would have no intention of consulting with Parliament. It would be assisted in this by its extreme secrecy restrictions, which are enhanced in this bill.

3. To understand what power the executive and/or Parliament is ceding to APRA

As above, the government and Parliament are ceding power not just to APRA, but to the BIS-FSB apparatus it is directed by. They are effectively being handed control of Australia's response to a financial crisis, in a way that strips the Australian people of their only protection—democratic accountability. The banking technocrats at the BIS, FSB and APRA regard democratic accountability as an obstacle to resolution, but only because their idea of resolution is what is in the interests of the banks. The government is responsible for the welfare of the whole population, and it must not renege on this responsibility by ceding power to a technocratic banking dictatorship.

4. To understand the possible implications to market concentration in the banking sector

That APRA has been a disastrous regulator is evidenced by the appalling behaviour and practices of the banks under its supervision, which drove the demands for a royal commission into the banks. Under APRA's supervision, Australia's banking system has also become more concentrated than ever, with just the Big Four banks controlling 80 per cent of the industry. And the business of those banks has become more concentrated than ever, with mortgages accounting for more than 60 per cent of the lending of each of them. APRA actively incentivised this outcome, by its early 2000s adjustment of capital risk weights to make mortgages far more profitable than any other type of lending. This has fuelled one of the biggest property bubbles in the world, which is proportionally even bigger than the U.S. property bubble that triggered the GFC when it burst in 2007-08. It has also starved productive industries, small businesses and regional Australia of credit, and incentivised the banks to aggressively foreclose on viable businesses and farms to claw back credit for redeploying into the housing bubble.

APRA's greatest failing in this regard is that it has allowed a concentration of extreme risk to build up in Australia's banking system, in the form of derivatives speculation. In the period that APRA has been the bank supervisor, total Australian bank derivatives have exploded, from $3.1 trillion in 1998, to $14 trillion at the time of the 2008 GFC, to $36.7 trillion today! The banks claim that they are "plain vanilla" derivatives contracted

in the normal business of banking, but this explanation does not explain their incredible, accelerating growth. The majority of these contracts are interest-rate and currency swaps, related to the banks' speculation in the housing bubble, which would be justified as reducing risk; but in fact, as the experience of the GFC proved, derivatives amplify risk. Measures have been taken since the GFC to ostensibly address the derivatives risk, such as the requirement that over-the-counter (OTC) derivatives go through Central Counter-Parties (CCPs), but many experts, including U.S. President Donald Trump's economics adviser Gary Cohn on 15 October 2017, have warned that CCPs themselves have now become a source of systemic risk in the financial system. Under the FSB's bail-in regime, derivatives obligations have priority over other bank liabilities, because of the risk that a default could trigger contagion in the global financial system. In other words, ordinary savers will lose their deposits, so counterparties to the derivatives bets that caused the financial crisis can be paid.

Conclusion

Leading experts and organisations, including most recently economist Claudio Borio of the Bank for International Settlements on 3 December 2017, are warning that economic and financial conditions are similar to those which triggered the crash in 2008. Not only will Australia not dodge the next global crisis, but there is also a real chance that a collapse of the Australian housing bubble could trigger it. The issue of the APRA bail-in powers in this bill, vs. Glass-Steagall banking separation, is therefore not an academic exercise. It has urgent, life-or-death implications—just ask the European victims of bail-in.

The CEC urges the committee to act on behalf of all of the Australian people, by rejecting this bill, and using the committee to lead a process of establishing Glass-Steagall separation of the Australian banking system that can guarantee financial stability and protect Australians' financial security.

Former APRA Researcher Urges MPs to Stop New APRA Laws

Dr Wilson Sy
Investment Analytics Research

Letter to Senators

Dr Wilson Sy, former principal researcher at APRA, responded to Prime Minister Malcolm Turnbull's 30 November 2017 announcement of a Royal Commission into the banks, with this sharply worded letter to MPs, urging them not to lower their guard.

Dear Senator …

I have been a principal researcher at APRA for six years, including a period as the head of research. I was also a senior adviser to the Super System Review 2010, chaired by Jeremy Cooper.

I am writing to alert you urgently not to lower your guard on a raft of proposed legislations relating to APRA and Australian superannuation. The just announced Royal Commission into banks, at the behest of the banks, with only a few weeks before Christmas is timed to maximise distraction and minimise scrutiny of the bills before the Senate.

By excluding APRA, the Royal Commission will not touch APRA. Yet the current bills give APRA unwarranted powers to help the banks, more easily and legally, to plunder the wealth of ordinary Australians.

Firstly, the bill on banking crisis management gives APRA "bail-in" powers to plunder bank deposits to save insolvent banks. APRA has already approved other bail-in arrangements by allowing the sale of convertible bonds (converting to shares in a crisis) to unwary retail investors.

Secondly, the bill on superannuation governance gives APRA the powers to force "independent" bankers onto the boards of Industry superannuation funds, which have so far managed to keep the foxes from the hen house, benefiting millions of working-class Australians.

Thirdly, the bill on MySuper products gives APRA the powers, with questionable data which it is now collecting, to create confusion in the best performing default segment of Australian superannuation, diverting attention away from the worst performing "choice" segment run by the banks.

If these bills were passed, the Royal Commission would be practically irrelevant, because APRA will have all the powers it needs to orchestrate a process of legal plundering of savers and taxpayers by the banks for the sake of "financial system stability".

The global financial crisis was/is a serious warning that the financial system and its practices are fraudulent. Reforms should be about changing fraudulent practices, not about preserving or enhancing them with more corrupt legislations.

Including APRA in the Royal Commission is essential in exposing fully how the banks can [commit] misconduct without any adverse consequences because they are protected by regulation. The bills empowering APRA must be blocked and be considered in the Royal Commission which is able to protect whistle blowers.

Yours sincerely,
Dr Wilson Sy

Protect Deposits Not the Fraudulent System

(Submission to the Senate Economics Legislation Committee)

Dr Sy's submission is dated 13 December 2017. The original, with hyperlinks to sources, is available at www.aph.gov.au/Parliamentary_Business/Committees/Senate/Economics/CrisisResolutionPowers/Submissions. Italics and bold emphasis are the author's. Some sentence and paragraph breaks have been edited for layout in this publication.

The Bill before the Senate, "Financial Sector Legislation Amendment (Crisis Resolution Powers and Other Measures) Bill 2017", gives the government and APRA new discretionary powers to confiscate bank deposits, as explained below. This Bill should be rejected.

Deposit Guarantee

There is a widespread misconception (even, e.g., ASIC) that bank deposits are currently guaranteed for at least up to $250,000. The Financial Claims Scheme (FCS) through which APRA administers the guarantee has not yet been activated, as the FCS website clearly states:

> **The FCS can only come into effect if it is activated by the Australian Government when an institution fails.** Once activated, the FCS will be administered by the Australian Prudential Regulation Authority (APRA).

Emphasis has been added. That is, when a bank fails, i.e. becomes insolvent, the Australian government or APRA then has the discretion to decide whether or not to activate the FCS. Hence, it should be emphasised that **bank deposits are not protected or guaranteed at all.**

Financial System Stability

However, most financial sector legislation mentions the protection of depositors. For example, *the Banking Act 1959* has a whole Division 2 of Part II devoted to *Protection of depositors,* stating in Subdivision A 12(1):

> It is the duty of APRA to exercise its powers and functions under this Division for the protection of the depositors of the several ADIs **AND** for the promotion of financial system stability in Australia.

Emphasis has been added. This may provide some comfort to ordinary people, but it is illusory because deposit protection is to be balanced against financial system stability, without the law clearly stating which has higher priority.

Stating priority is important because these objectives may be conflicting. The Bill proposes amendments to empower APRA to decide at its discretion and in secrecy under *Subdivision D—Secrecy and disclosure provisions relating to all directions.* Section11CH (p.24) states that *"APRA may determine that a direction is covered by secrecy provision" :*

> (2) APRA may determine, in writing, that the direction is covered under this subsection if APRA considers that the determination is necessary to protect the depositors of any ADI **OR** to promote financial system stability in Australia.

Emphasis has been added. Note that "AND" has been replaced by "OR" in the statement of objectives, confirming the potential conflict of objectives. Therefore, it is important to recognise that **the Bill allows APRA discretionary powers to decide secretly whether to protect depositors or to promote financial system stability.** Threats to financial system stability are merely perceptions and not well defined judgements.

Regulatory Priority

It would be an optimist to hope that the regulators would choose to protect depositors. The Reserve Bank (2012) makes clear the priorities of our financial regulators:

> ...section 10 of the Reserve Bank Act 1959 requiring the Bank to 'ensure that the monetary and banking policy of the Bank is directed to the greatest advantage of the people of Australia' and that its powers are 'exercised in such a manner as, in the opinion of the Reserve Bank Board, will best contribute to: (a) the stability of the currency of Australia; (b) the maintenance of full employment in Australia; and (c) the economic prosperity and welfare of the people of Australia'. Given the serious damage to employment and economic prosperity that can occur in times of financial instability, **the Act has long been interpreted to imply a mandate to pursue financial stability.**

Emphasis has been added. Therefore, the evidence collected here strongly suggests that **the Bill is designed to confiscate bank deposits to "bail-in" insolvent banks to save the financial system.**

Confiscating bank deposits has already occurred in Cyprus in 2013 as an experimental measure which could be used in other jurisdictions and under other circumstances to "save" the global financial system. This raises the question whether a system which needs saving by massive injections of capital in past bail-outs is a system which should be saved at all. The facts have shown that **financial crises have been used as instruments of systemic plunder.**

Structural Reform

The global financial crisis (GFC) proved beyond reasonable doubt that the global financial system is fraudulent and that regulators have not restrained the fraudulent practices of banks. Financial system stability was

restored at an enormous cost, equivalent to more than 15 trillion dollars in bail-outs by the three major central banks alone. Some of the flaws in the global financial system exposed by the GFC have been discussed in the attachment enclosed with this submission [available on the parliamentary website, address above].

In the ten years since the onset of the GFC, instead of a fundamental restructure of the system on a sounder basis, the Bank for International Settlement (BIS) has coordinated cosmetic regulatory reforms. More than hundreds of trillions of dollars of over-the-counter (OTC) derivatives are still not properly audited and regulated, providing ample opportunities for fraud. As a result, more financial crises are anticipated which necessitate more arbitrary powers to manage and resolve crises and hence the current misguided Bill has been introduced to save the system with more plunders. The Bill itself may introduce its own destabilizing risk, because **once the Bill is understood as potential confiscation of bank deposits to "bail-in" insolvent banks, a loss of confidence could precipitate a financial system instability which the Bill is supposed to prevent.**

The global financial system needs fundamental structural reform which many countries believe is the restoration of the Glass-Steagall legislation which had worked well for many decades until it was corruptly or mistakenly repealed at the turn of this century. Conglomerates which evidently failed to manage properly their complex businesses should be broken up by divesting units which have not been adequately managed.

Conclusion

The warped logic of the proposed legislation seems to be: Financial system stability is good for the welfare of the people therefore we must ensure financial system stability even if it means sacrificing the welfare of the people.

Hence the Committee and the senators should consider the proposition that **the Bill before the Senate, "Financial Sector Legislation Amendment (Crisis Resolution Powers and Other Measures) Bill 2017" be rejected because in the interest of the people as a priority, bank deposits should be protected, not the fraudulent financial system.**

Reference

Sy, Wilson N., "Implications of the Global Financial Crisis" (26 August 2014). *Journal of the Economics and Business Educators NSW,* 2014, Issue 2, pp. 26-34. Available at https://ssrn.com/abstract=2520661.

Australian Finance Giants Are Just Sheep—and APRA Is the Shepherd

A Former APRA Analyst

The two articles excerpted here appeared in the Australian Alert Service of 13 and 27 September 2017. The AAS versions, containing footnotes to sources, may be accessed at www.cecaust.com.au/APRA-insider.pdf.

APRA sees itself as a shepherd herding sheep as reported in the 24 August 2017 *Australian Financial Review* (AFR). So who are the wolves? Obviously you, me and those other dangerous people who insist that banks obey the law.

The metaphor is consistent with key features of APRA—a lack of urgency in policing banking practices, the sense that everything in the financial system is basically fine, disconnectedness from the public, a pretence of not knowing what is wrong with the financial system, and complacency with the way things are.

Externally, APRA is respected by the financial industry, the government and, APRA believes, by the public. The internal culture and external image are carefully cultivated. There is great care in selection of words to match the official narrative—that everything is fundamentally okay—at every level of the organisation.

Shepherds Need to Work, Too

As we know, everything is not fine. Even though APRA has enormous powers, including to remove senior officers from banks under section 23 of the *Banking Act*, and the power to give advice to the treasurer without being asked—which could be read as a duty—APRA consciously chooses to exercise its powers as little as possible.

APRA has never exercised its *Banking Act* section 23 powers despite the banking scandals of the last 10 years. This is why the discussion around giving APRA "tough new powers" is amusing—APRA refuses to exercise the powers that it has, so why it give it more powers, except for either a pretence of government action, or plans for actions that are far outside the norm—such as "bail-in"?

APRA Fails in Duty to Advise the Treasurer

Internally, any proposal that smacks of changing the status quo is dismissed as something for the politicians not APRA—even proposals that would improve systemic stability, which is squarely within APRA's mandate. Similarly there is the sense that the economy is someone else's problem, and that Treasury has it covered. Section 10 of the *APRA Act* allows APRA to advise the minister—which means the

treasurer—on matters relating to financial safety, any prudential framework law, and *any of the treasurer's functions and powers*. Parliament expressly included "APRA may advise the Minister on its own initiative" in an amendment to the *APRA Act* in 2003, whereas previously APRA's advisory function was limited only to situations where a financial sector entity was unable to meet its obligations.

Glass-Steagall and national banking are clearly conducive to systemic stability and so within APRA's mandate to advise the treasurer without being asked. However, APRA has never done so. In any case, APRA does not officially support Glass-Steagall or national banking, partly because APRA chooses to behave as if it were a subsidiary of the Bank for International Settlements (BIS).

Criteria for Action Ensure Little Action

Every decision for action by APRA needs to follow stepwise linear reasoning from premises based on readily observable evidence. Since its main premise is that everything is fine, and since few illicit actions in finance are readily observable, naturally there are few decisions for action.

When issues emerge like widespread mortgage fraud, failure to comply with anti-money laundering rules, or fraudulent denial of life insurance claims, then first of all the issue is considered to be fundamentally the problem of some other agency, such as the Australian Securities and Investments Commission (ASIC) or the Treasury.

If deeper concern is forced on APRA, usually by Treasury due to public pressure, then the question is: how does APRA deal with the impact on APRA's reputation? And the impact on the reputation of the financial institution concerned? Not the impact on depositors or policyholders.

Case of CBA: Contrast AUSTRAC and AFP with APRA

In the rarefied world of APRA, words like "crime" and "fraud" are extreme language—a bit jarring in a world where everything is basically fine.

Tony Boyd of the *AFR* castigates Australia's financial intelligence agency, the Australian Transaction Reports and Analysis Centre (AUSTRAC), for its bold action against the Commonwealth Bank of Australia (CBA) for its money laundering, and contrasts APRA as a "mature" regulator because it tidies up messes behind the scenes. Presumably this means that AUSTRAC and the Australian Federal Police (AFP), which was instrumental in the AUSTRAC action, are immature. So it is immature to attempt to enforce the law through the courts when letters don't work? APRA will stick to letters and chats.

Had AUSTRAC taken the APRA approach, there would have been no court action, little public knowledge of CBA's facilitation of money laundering, and perhaps the AFP would have been told to pull their heads in.

Local Operative for Puppet Masters in Basel

At the same time, APRA also sees its role as acting as the local branch of the Bank for International Settlements (BIS), also known as "Basel" which is where the BIS is based.

In this way, APRA can defend itself as implementing stringent requirements from Basel. However, APRA does not implement all requirements from Basel, only those APRA chooses, and those are implemented merely as guidelines, not hard requirements. When APRA wants to send the message that a bank is not complying with Basel guidelines, APRA will send a letter and perhaps make a phone call to executives at the bank concerned to sort it out.

A Lofty Mission

Despite many well-meaning and hardworking staff, the effect of its culture, its overall approach, and its capture by private financial-sector interests and the BIS, is that as an organisation APRA cannot take its own mission seriously. The APRA mission is:"To establish and *enforce* prudential standards and practices designed to ensure that, under all reasonable circumstances, *financial promises made by institutions we supervise are met*." (Emphasis added)

That is, protect bank depositors and insurance policy holders. The *Banking Act* section 12 says that APRA's duty is to protect depositors.

The duty to protect depositors is inconsistent with bail-in, yet APRA supports bail-in.

The unambiguously worded APRA mission does not seem to envision shepherding, but rather a law- and rule-enforcement role. Other financial regulatory authorities such as the Monetary Authority of Singapore (MAS) and the Reserve Bank of India (RBI) see their roles quite differently and they act very differently. Inaccurate regulatory reports and technology issues like bank transfers being delayed are dealt with swiftly and severely, including with increased capital requirements.

As far as risky derivative bets and excessive lending into a particular sector are concerned, APRA considers that to be the banks' own business, which the banks should be allowed free rein to decide upon. As far as bank fraud and hardship imposed by banks on people are concerned, even if on the scale that systemic stability is threatened APRA considers that to be ASIC's domain, and if ASIC does nothing then that's not APRA's problem.

Obeying the Law is Replaced by Relationship Management

Considering the recent CBA anti-money laundering compliance allegations, arguably APRA—and possibly ASIC too—encouraged and even enabled CBA's attitude towards regulation. CBA says it has "proactive relationships" with regulators, and in corporate-speak regards regulators as stakeholders to be managed.

By forever balancing the "burden" of compliance with benefit, APRA tends to find in the bank's favour that the burden is too great, as the bank argued.

Arguably CBA's obsession with automation helped created the enthusiasm for the intelligent deposit machines (IDMs) which were used by money launderers: "If you don't open channels, if you don't have rich relationship data and real-time services you cannot lead the market and you cannot change the game." APRA would find these arguments about "innovation" persuasive—"well, we can't stifle innovation".

Helping Industry Combat Fallout from Scandals

With CBA's money laundering, now that Treasury ordered APRA to order a wide-ranging review of CBA's culture and processes, it seems likely that, based on past experience of how APRA works, it is positioning the review as CBA's platform to show the world how good it is.

It was the same with the CommInsure Life Insurance scandal. APRA, ASIC and the life insurance industry joined forces to hammer the mantra "over 90 per cent of claims are accepted". APRA and ASIC have started a new data collection on life insurance claims and acceptance rates to prove it. Where there is public ire, APRA must be seen to act—but after the damage has been done.

How Can Australian Government Make Policy without Accurate Data on Mortgage Lending?

Excerpts from the second article begin here.

Residential mortgage lending comprises well over half of bank lending in Australia, an extraordinarily high proportion by world standards. The result is that Australian financial sector policy is starving productive sectors of credit.

This state of affairs suggests that policymaking circles as a clique are not serious about ensuring that financial sector policy benefits the national interest. The present level of mortgage lending only serves to prop up high house prices. Yes, residential housing is important and essential, but it is not a substitute for a thriving engineering, manufacturing or agricultural sector.

In any case, policymakers cannot make meaningful policy arguments about residential mortgage lending without accurate data. With such a high proportion of bank lending in residential mortgage lending, one would think that policymakers at least have accurate data on the topic. Unfortunately, the Australian Prudential Regulation Authority (APRA), the gatekeeper to the financial sector, has other ideas.

This article is on APRA failing to require banks to report accurate data on key features of housing loans, despite pressure from government agencies that APRA demand greater accuracy in what banks report to APRA in their residential mortgage lending, especially what proportion are investment loans versus owner-occupier loans.

How can lawmakers, both federal and state, or the central bank, do their job when the national statistical agency for the financial sector is lax in financial sector reporting requirements?

APRA is the national statistical agency for the financial sector, and has power to collect information from financial sector entities under *The Financial Sector (Collection of Data) Act 2001*. Using this power, APRA collects data from authorised deposit-taking institutions (ADIs) which include banks, credit unions and building societies, on behalf of the Australian Bureau of Statistics (ABS) and the Reserve Bank of Australia (RBA). Data collected by APRA are used by the RBA and the ABS for publication, analysis and policy purposes, and by APRA for publication, analysis, policy and supervisory purposes.

Trigger for Review of Data Collection

APRA released final requirements for the new Economic and Financial Statistics (EFS) collection, APRA's statistical data collection on behalf of the RBA and the ABS, on 28 August 2017. In 2015, there has been well-publicised reclassifications of housing loans from owner-occupier to investment. The RBA expressed concern publicly. The problem continues today.

One purpose of the EFS collection was to address the problem of inaccuracy in financial data used for policymaking. The Discussion Paper for the EFS industry consultation says: "The need to modernise has been given further impetus by frequent data resubmissions, some of which have been of sufficient magnitude and importance to complicate the analysis of significant policy issues."

Location Where Loaned Funds Are Spent

The location of an investment property is key to correctly categorising a loan as owner-occupier or investment. Banks are required under know-your-customer (KYC) rules, which come under the anti-money

laundering and counter-terrorism financing (AML-CTF) rules, to ensure that their customer residential address records are accurate. If the address of the property purchased is different from the customer's residential address, then it's an investment property, and if the addresses are the same then generally it would be owner-occupied.

Moreover, state and territory governments in order to manage economic activity need to know how much mortgage funds are flowing into their state or territory, the Victorian State Treasury told APRA directly in its response to the EFS consultation. For that, the banks need to report mortgage loans by the location of the actual investment property not the security property. Again, accurate data on location of property purchased is important.

Despite the pressure from other government agencies, APRA refused to insist that banks use an accurate record of the address of the investment property purchased, for regulatory reporting purposes. Instead, APRA is comfortable with banks using the collateral property as a "proxy" or guesstimate for the address of the property purchased. This is key because many owner-occupiers use their home as security to buy an investment property, and potentially in a different state or territory from where the borrower lives. Therefore the collateral property may not always be the same as the purchased property. To what extent? We don't know, and APRA does not seem to want to know.

APRA does not require banks to systematically distinguish the security property from the purchased property. At a stroke, an obvious check on whether a loan is owner-occupier or investment is removed, and the ability to determine where the loaned funds are being spent is removed.

This is at odds with the RBA and State Treasury requirements. It also is at odds with APRA's own investment lending speed growth limit monitoring which is based on growth in investment loans. Without data that accurately distinguishes investment loans from owner-occupier loans, how can you monitor growth in investment lending?

ARIP Scandal

The issue relates to the scandal of lending to people who are asset rich and income poor (ARIPs) who own their own home, some of whom are pensioners. Vulnerable people are enticed to put their home up as collateral to buy an investment property potentially a long distance from where they live. Without accurate official data on purpose of funds loaned versus security, the government and the regulator have a blind spot on the nature and extent of mortgage lending to ARIPs.

If banks are abiding by the KYC requirement of maintaining an up-to-date record of each customer's residential address, then requiring that banks maintain the address of the property purchased in a maintainable reportable format is the only additional requirement.

It's in a bank's interest as lender to know the address of the property purchased and to have the information readily available. Even if the property purchased is not the security for the loan, it is relevant to the bank that the value of the property purchased is falling, if that happens, because it puts the bank on alert that the loan might fall into arrears or become distressed. By not knowing which property was actually purchased, banks putatively have no idea how the portfolio of their investor-borrowers are faring. This is hard to believe. It seems likely that banks do in fact have the data but APRA is not requiring it be used for regulatory reporting—which is even more damning for APRA as regulator and national statistical agency for the financial sector.

What Is at Stake

To summarise—knowing the profile of where loan funds are spent would:

1. Give accurate owner-occupied and investment residential property lending data which many government agencies including APRA need;
2. Give state treasuries information they need on loan funds being spent in their state;
3. Give insight into the extent of the well-publicised but not-yet-investigated ARIP scandal; and
4. Give banks the information they need to run their business effectively, i.e. manage prudential risk which also should be APRA's concern.

Therefore, it does not make sense that APRA would settle for the "proxy" rather than require accurate data. APRA has the data collection power for the financial sector so government must accept whatever APRA settles for. APRA's actions suggest APRA does not want accurate data on the nature and profile of mortgage lending in Australia, which calls into question APRA's purpose and intention.

Crimes of the Australian Banks

Richard Bardon
CEC Researcher

The "illegal" and "legalised" criminality typical of City of London and Wall Street megabanks, outlined on **pages 25-28**, is also present in Australian banking. Even before being granted extraordinary powers **(page 41)**, the Australian Prudential Regulation Authority (APRA), has been an enabler of the megabanks committing these crimes. The current system is rotten to the core and needs to be changed fundamentally, starting with Glass-Steagall banking separation **(page 61)** and continuing with the institution of a national bank **(pages 5-24, 84)**.

All the main categories of outright crime have been uncovered in Australia, in major scandals over recent decades: interest-rate rigging, money-laundering to the benefit of illegal drug trafficking and terrorism, mortgage fraud, and outright theft of various kinds. As for what we call "legal" criminality, above all the speculative derivatives trade, Australia's banks are up to their ears in it **(Fig. 1, this page; Fig. 2, page 28)**.

Australia's Big Four too-big-to-fail banks are all involved in both outright criminality and the legalised form. They are:

- Australia-New Zealand Banking Group (**ANZ**);
- Commonwealth Bank of Australia (**CBA**);
- National Australia Bank (**NAB**);
- **Westpac;**
- as well as the investment banking arm of the **Macquarie Group**.

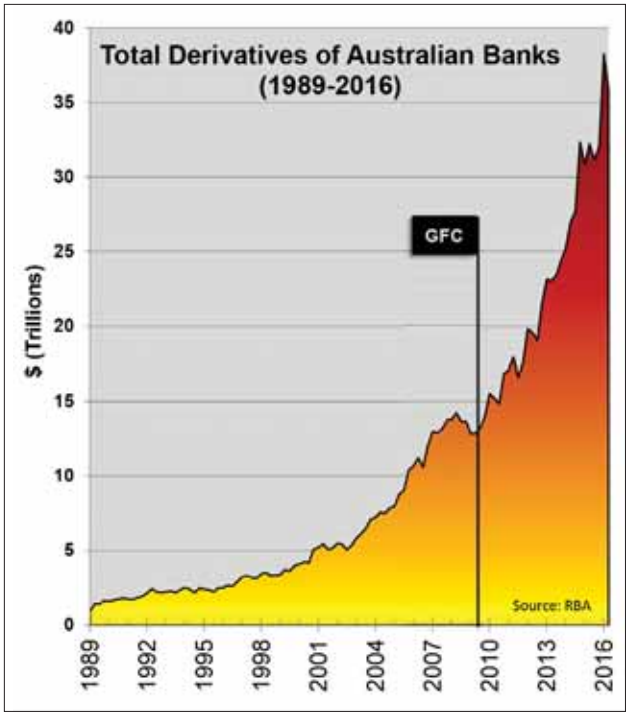
All have repeatedly been caught committing crimes that should have led to their being shut down and their executives jailed, were Australia's financial sector truly well regulated, rather than having APRA as the protector of the banks, above the interests of the citizenry.

One after another watchdog agency has apprehended the banks in criminal activity, but too often these cases are viewed as individual scandals. The dossier of highlights below should be looked at as a totality, in which consistent criminal behaviour is revealed. Necessarily it is made up of highlights, and is not an exhaustive list of the crimes of the banks. The Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, sitting since December 2017, has required that each bank submit a document of no more than 50 pages, describing their malfeasances. Some of the cases reported below will no doubt be included.

The investigating government agencies in these cases, referred to below by their acronyms, include:

- Australian Competition and Consumer Commission (ACCC), administrator of the *Competition and Consumer Act*;

FIGURE 1



- Australian Securities and Investments Commission (ASIC), the regulator for adherence to consumer-protection and corporate laws related to finance;
- Australian Transaction Reports and Analysis Centre (AUSTRAC), the financial intelligence agency for monitoring transactions to identify money laundering and other criminal monetary flows.

Interest-rate Rigging

In March-June 2016, ASIC opened cases against **ANZ**, **NAB** and **Westpac** for manipulating the Bank Bill Swap (BBSW) reference rate, Australia's interbank lending benchmark. The BBSW, the reference rate for corporate loans and payments on interest-rate derivatives, directly or indirectly affects virtually all personal lending (mortgages, credit cards etc.) as well. The rate is based on the average price of "Prime Bank Eligible Securities"—debt instruments with a remaining maturity of six months or less, issued or accepted by a select group of local and international banks operating in Australia—traded during a five-minute "window" at or around 10:00 AM each Sydney business day.[1] A large bank can drive the day's BBSW up or down by conducting a large volume of trading during this window. The huge daily turnover in markets using the BBSW means that even

1. Until 2017 the BBSW was administered by the Australian Financial Markets Association, formed by banks and other financial institutions in 1986 to "self-regulate" their over-the-counter trading markets. Its membership includes local branches of many of the British and multinational banks caught rigging the London Interbank Offered Rate (LIBOR) in 2012 (**page 26**). As of 1 Jan. 2017 the BBSW is managed by the Australian Securities Exchange.

small manipulations can reap millions of dollars in profit.

ASIC charged the three banks with "market manipulation and unconscionable conduct" in relation to setting the BBSW on 50 (**NAB**), 44 (**ANZ**) and 16 (**Westpac**) specific days in 2010-12. Supporting evidence (bank traders' email exchanges and transcripts of telephone conversations about rigging the rate) reached back to 2003.[2] On 6 April 2010, for instance, influential **Westpac** managing director Colin Roden was recorded explaining how, by trading billions of dollars' worth of one- and three-month bank bills during the "window", he was able to drive the rate setting down from 4.30 per cent to 4.23 per cent, making the bank a $12 million profit. According to the transcript, Roden told a colleague: "I knew it was completely wrong but f*** it … We've just got so much money on it, we just had to do it."[3] Roden at that time was a member of the Australian Financial Markets Association's Benchmarks Committee, the body which oversaw the procedures for setting the BBSW.

All three banks initially offered to pay multi-million dollar settlements, but decided to fight the charges after ASIC refused to let them off without a formal admission of guilt, which the banks sought to avoid lest they be left open to class actions. In early November 2017, as the trial was about to commence, **ANZ** and **NAB** caved in and gave enforceable undertakings (court-enforceable agreements, a form of pre-trial settlement that may or may not include an admission of wrong-doing) to ASIC, whereby each bank admitted guilt and agreed to pay a $10 million fine, $20 million to cover ASIC's and the court's costs, and another $20 million "into a fund that is to be applied to the benefit of the community". In accepting the settlement, Justice Jayne M. Jagot declared that, "The public should be shocked, dismayed and indeed disgusted that conduct of this kind could have occurred" on the part of "two pillars of Australia's banking system".[4] **Westpac** contested the charges in court, claiming that statements by Roden and other employees had been misunderstood or taken out of context. Hearings concluded in December 2017, but as of May 2018 a judgment had not yet been handed down.

The **Westpac** trial revealed the roles and identities of **CBA** traders who had featured incidentally in communications ASIC had submitted as evidence in its original case against **Westpac**, **ANZ** and **NAB**.[5] The bank's claim to have fully cooperated with ASIC's BBSW investigation for the past two years notwithstanding, on 30 December 2017 ASIC charged **CBA** with "unconscionable conduct and market manipulation" in January-October 2012, and alleged it had "traded with the intention of affecting the level at which BBSW was set" on three specific occasions in February-March of that year.[6] Among the key figures upon whose activities the **CBA** case is expected to concentrate is Mark "the Powerful Owl" Hulme, who was responsible for **CBA's** securities trading during the rate-setting "window", and sat alongside **Westpac's** Roden on the Benchmarks Committee.[7] Hearings in the **CBA** case are scheduled to commence in May 2018.

Foreign-exchange Rigging

The **Big Four** and **Macquarie** all have been found guilty of manipulating international foreign exchange (FOREX) markets, to enhance the gains from their speculation on the value of currencies.

In November 2016, ACCC took **ANZ** and **Macquarie** to court for "attempted cartel conduct" in 2011, aimed at rigging the ABS MYR Fixing Rate[8], a benchmark exchange rate for "non-deliverable forwards" (NDFs) denominated in the Malaysian currency. NDFs are short-term (often just one or two business days) futures contracts, used for speculating in currencies subject to capital controls. Unscrupulous traders can profit by driving the benchmark rate up or down against the expected spot price of the base currency (usually the U.S. dollar) on the settlement date. According to ACCC, **Macquarie** and **ANZ** traders regularly "attempted to make arrangements with other banks that particular submitting banks would make high or low submissions to the [ABS] in relation to the [ABS MYR] fixing rate" (**ANZ** was a submitting bank; **Macquarie** was not, but often initiated the collusion).[9] On 14 December 2016 the Federal Court fined **ANZ** $9 million, and **Macquarie** a mere $6 million.

In December 2016, **CBA** and **NAB** gave enforceable undertakings to ASIC, admitting that in 2011-13 several of their FOREX traders in Sydney, New York and London had manipulated the spot market for swaps in various currency pairs, in order to profit at their clients' expense. They had used a technique called "front-running", meaning that they made advantageous trades on their own personal accounts, based on market changes they engineered by means of sale or purchase orders on their clients' accounts. Chat-room transcripts showed that the brokers had conspired with "external market participants" and/or traders at overseas branches of their own banks, to access and share confidential information, including clients' identities. Reportedly, international "jurisdictional complexities" deterred ASIC from

2. Jonathan Shapiro, "BBSW traders feared jail terms for market peers", *Australian Financial Review*, 28 July 2016.

3. Patrick Durkin, "Westpac pulled into ASIC rate-rigging case", *Australian Financial Review*, 6 Apr. 2016.

4. Decision in *Australian Securities and Investments Commission v National Australia Bank Limited [2017] FCA 1338*, Federal Court of Australia, 10 Nov. 2017.

5. James Frost, "ASIC hits CBA with BBSW rate-rigging allegations", *Australian Financial Review*, 30 Jan. 2018.

6. ASIC media release no. 18-024, 30 Jan. 2018.

7. James Frost, "ASIC's BBSW case against Commonwealth Bank to focus on the 'Powerful Owl'", *Australian Financial Review*, 31 Jan. 2018.

8. ABS stands for Association of Banks of Singapore, while MYR designates the Malaysian ringgit.

9. ACCC media release, 25 Nov. 2016.

prosecuting the banks; it let them off with "voluntary contributions" of $2.5 million apiece to a government-sponsored not-for-profit organisation.[10]

In March 2017, ASIC accepted enforceable undertakings from **Westpac** and **ANZ** resulting from similar misconduct by their traders between January 2008 and June 2013. Each bank got off with a $3 million "community benefit payment".[11] **Macquarie** followed in May 2017; its penalty was a $2 million donation to a charitable organisation.[12]

In February 2017, South Africa's Competition Tribunal brought a collusion case against **ANZ** and **Macquarie**—alongside 15 other banks including Wall Street giants JPMorgan Chase and Bank of America-Merrill Lynch; France's BNP Paribas; Credit Suisse; and London behemoth HSBC—for price-fixing and market manipulation in currency swaps involving the South African rand. The Commission alleged that the 17 banks had agreed to "collude on prices for bids, offers and bid-offer spreads for the spot trades in relation to currency trading involving the rand/US dollar currency pair" since at least 2007.[13]

Mortgage Fraud

Two reports issued in September 2017 showed that, far from "cooling" the overheated Sydney and Melbourne real estate markets, APRA bears direct responsibility for creating the mortgage bubble, by allowing the banks to get away with some of the dodgiest lending practices in the world. Researchers at the investment bank UBS concluded that there are at least $500 billion in "liar loans" on Australian banks' books, in this time of record high household debt and record low wage growth.[14]

Australian banks routinely claim to be among the strongest and best capitalised in the world but Lindsay David, co-founder of the financial research firm LF Economics, concluded that the banks' practice of issuing new loans against unrealised capital gains (that is, assumed future re-sale values of existing investment properties) had turned the housing market into a $1.7 trillion dollar "house of cards" that comprises at least 60 per cent of their collective loan book. David wrote: "The use of unrealised capital gain (equity) of one property to secure financing to purchase another property in Australia is extreme. This approach allows lenders to report the cross-collateral security of one property which is then used as collateral against the total loan size to purchase another property. ... This has exacerbated risks in the housing market as little to no cash deposits are used."[15] Because repayments on the properties thus acquired, even on interest-only terms, often exceed the rental income they generate, "Profitability is therefore predicated upon ever-rising housing prices"—the classic definition of a speculative bubble, which banks do everything in their power to entice borrowers into.

David laid the blame squarely at APRA's feet for failing in its statutory responsibility to enforce Australia's responsible lending standards. He wrote, "ASIC and APRA have failed to protect borrowers from predatory and illegal lending practices. Although ASIC has no official 'duty of care', APRA does, and will have some serious questions to answer in relation to systemic criminality within the mortgage market committed by the financial institutions they regulate. The evidence strongly suggests the regulators have done nothing to combat white-collar criminality in the mortgage market."

Besides flouting the rules by accepting IOUs in lieu of cash deposits, banks also appear happy to let borrowers falsely inflate their incomes in order to qualify for a mortgage. UBS analyst Jonathan Mott estimated, based on an annual telephone survey, that one-third of borrowers in the previous 12 months were "not 'completely factual and accurate'" on their home-loan applications, while the proportion of respondents who admitted to being only "partially factual" had doubled to 10 per cent since last year. "Given the rising level of misstatement over multiple years", he said, "*we estimate there are now around $500 billion of factually inaccurate mortgages on the banks*' books" (emphasis added). "Both the probability of default and loss in the event of default for the Australian mortgage books continues to be underestimated", Mott warned. "The impact on the broader economy from a housing downturn is likely to be more severe than the banks anticipate. Mortgage misrepresentation is systemic across Australia."

Mott also concluded that one-third of Australian mortgage borrowers with so-called "interest-only" loans were unaware that their monthly payments do not include any reduction of the principal amount.

Evidence compiled by Banking and Finance Consumers Support Association President Denise Brailey, a trained criminologist, indicates that such "white-collar criminality" in mortgage lending was systematic. She documented that Australian banks had created a sophisticated computerised system to approve over $800 billion worth of toxic loans they know can never be repaid, to feed the housing bubble—and thus their profits—by bankrupting and asset-stripping their customers.[16]

Banks train mortgage salesmen—both their own

10. James Eyers and James Frost, "CBA and NAB admit impropriety in foreign exchange trade", *Australian Financial Review*, 21 Dec. 2016.

11. ASIC media release no. 17-065, 15 Mar. 2017.

12. ASIC media release no. 17-144, 19 May 2017.

13. "Competition Commission prosecutes banks for collusion", fin24.com, 15 Feb. 2017. The case remains open as of May 2018.

14. Michael Roddan, "Banks sitting on $500bn worth of 'liar loans'", *The Australian*, 12 Sept. 2017.

15. Frank Chung, "Issuing new loans against unrealised capital gains has created an Australian 'house of cards'", news.com.au, 6 Sept. 2017.

16. Denise Brailey, "Australia's Mortgage Fraud 'Banking Scandal'", 7 March 2017 (submission to the Senate Economics Standing Committee's inquiry into consumer protection in banking, insurance and finance).

staff and broker agents—in high-pressure sales techniques to entice customers into the property market. The banks go after "anyone with a house and a pulse", but the main target category is the so-called Asset-Rich, Income-Poor (ARIP) bracket: people over 55 who own their own home and have little to no debt, but also very little savings or superannuation, whom bank salesmen convince to borrow against (i.e., mortgage) their homes in order to purchase investment properties with which to supplement their retirement income. APRA's failures to police lending to ARIP borrowers are discussed in the articles on **pages 49-52**.

Borrowers are often kept in the dark about their ability to pay on their mortgages, because they are shown only three pages of an eleven-page loan application form. Salesmen ask the borrower to sign the three pages, then go back to the office and fill out the rest themselves. Reported Brailey, "The initial three pages contain only basic personal details of address, phone etc. and on the third page of small print, the words: 'I have read and fully understand everything in this document.' This method of sign-up is an intentional entrapment, as the customers are unware of the existence of the additional pages until at least three years later. Most borrowers see everything as 'normal' and suspect nothing. They trust the Bank." As a result, people aged in their 60s might apply for a $420,000 mortgage, but find themselves paying on a $500,000 30-year interest-only loan they never asked for, which can never be paid off or extinguished except by repossession, sale, or the death of the borrower. A bank's profit on such a loan would typically be around $150,000 in the first five years; over 30 years, it would be about $1 million, but in reality such loans are "engineered and intended to implode within five years, to coincide with 5-year maturities on the residential mortgage-backed securities" into which the repayments have been bundled and sold onward. To prevent these mortgages from turning up on the banks' books as impaired loans, borrowers are strung along with so-called "bridging loans" to help meet their repayments; the bank in effect pays itself by heaping ever more debt on the hapless victim, until foreclosure.

Asset-stripping of Commercial Borrowers

A 2015 Parliamentary Joint Committee on Corporations and Financial Services inquiry into "impairment of customer loans" received testimony that the **Big Four**, **Macquarie**, **Bank of Queensland**, **Members Equity Bank**, **Adelaide Bank**, **St George Bank**, and other banks and non-bank lenders had engineered "non-monetary defaults" (violation of some covenant within a loan agreement, other than making payments) to strip farmers and small businesses of their assets by foreclosing on their loans, despite their having never missed a payment. **CBA** alone had deliberately impaired more than 1,000 such loans with an aggregate value of over $8.2 billion, which it had acquired when it bought Western Australian regional lender **Bankwest** in 2008.[17] In the midst of the global financial crisis and a severe drought, the banks arbitrarily lowered their valuations of farms and other commercial assets to below the loan-to-value ratio threshold that triggered a technical default. Some victims also complained of being extorted out of tens of thousands of dollars for specialist audits of their accounts.

Financial Planning Fraud and Outright Theft

Several Australian banks have ripped off their customers through reckless or outright fraudulent investment advice, with or without help from external financial advice companies or managed investment schemes (investment through pools).

ANZ and the **Bendigo and Adelaide Bank** lent heavily to investors who were persuaded to put money into the Timbercorp and Great Southern managed investment schemes, which were plantations of timber, avocado and olive orchards, vineyards, etc. The schemes were incentivised by hefty upfront tax breaks, which made them look viable, though they were not. Timbercorp and Great Southern paid financial advisers big commissions to draw investors into their schemes, but the real money came in from **ANZ** and **Bendigo and Adelaide Bank**, which made margin loans to investors. For Timbercorp investors, ANZ was fronted by Timbercorp Financial; borrowers thought they were borrowing only against the value of their investment, but they had borrowed against their homes. When the schemes collapsed in 2009, tens of thousands of investors lost millions of dollars. The banks, which had backed these schemes and loaded up on loans even after signs of trouble appeared, and should have been much better qualified to assess the risks than the investors, were nevertheless allowed to chase those investors for everything they owed, plus penalty interest rates.

The most infamous case of bank collusion with external investment advisers is that of Townsville, Queensland-based company Storm Financial, which from 1994 until its collapse in January 2009 convinced thousands of clients—many of them of retirement age—to mortgage their homes with its "preferred lenders" **CBA**, **Macquarie**, and **Bank of Queensland**, to fund speculative stock market investments. Some 3,000 of Storm's clients were "double geared", having also taken out margin loans (loans secured against the shares bought with the borrowed money, a high-risk speculative strategy totally inappropriate for retail investors), and lost everything when the company collapsed. Total client losses exceeded $3 billion; ASIC proceedings and class action lawsuits saw **CBA** pay $268 million, **Macquarie**

17. Adele Ferguson and Sarah Danckert, "Committee hears of Commonwealth Bank's $8.2 billion 'fraud'", *Sydney Morning Herald*, 13 Nov. 2015.

$82.5 million and **Bank of Queensland** $19.7 million in compensation and costs.[18] Not one bank executive was prosecuted or even sacked over the scandal. Law firm Slater and Gordon, which handled class actions on behalf of many victims, charged that Storm Financial had acted as a front for the banks.

Banks have also robbed their clients directly.

In June 2013, former **CBA** employee Jeff Morris told Fairfax Media that the bank had first encouraged, and then covered up, widespread criminal misconduct, including the forgery of clients' signatures on contracts and "mis-selling of financial products" by staff at its financial-planning subsidiary, Commonwealth Financial Planning Ltd (CFPL). Morris had raised his concerns in 2008 via **CBA's** internal whistleblowing system, and then in an anonymous fax to ASIC, but no significant action resulted. His public disclosures prompted an inquiry by the Senate Economics References Committee, which found that "the conduct of some financial advisers was unethical, dishonest, well below professional standards and a grievous breach of their duty of care to their clients. The way in which they targeted vulnerable trusting people and placed conservative investors in high-risk products showed a callous disregard for their clients' interests. … That a major and reputable financial institution could have tolerated for so long conduct that involved bad advice, poor record keeping, missing or incomplete client files as well as allegations of forged documents is not easy to accept."[19] The committee recommended a royal commission, but then-Treasurer Joe Hockey dismissed the idea, saying: "This is one institution. I don't think it is systemic."[20]

In February 2015, a whistleblower from **NAB** leaked documents to Fairfax Media, detailing similar crimes. An internal **NAB** report, circulated in August 2014, noted that the bank had "suspended, terminated or ensured the resignation" of 31 financial planners in the previous two years due to conflicts of interest, inappropriate advice and practices, or "serious repeat compliance breaches".[21] Among other things, planners had forged clients' signatures and falsified records to cover up compliance breaches, some of which were described as "ongoing". Again, no senior executives were dismissed from either bank.

In October 2016, ASIC reported that the **Big Four**, **Macquarie**, and financial services giant **AMP Ltd** had charged clients for financial advice never actually provided.[22] **Macquarie**, whose clientele comprised mainly relatively "sophisticated" institutional investors, self-reported nine such cases for which it had already paid compensation. An ASIC review apparently did not find further breaches, but by May 2017, 45,000 defrauded customers of the **Big Four** and **AMP** had been identified, and the estimated compensation bill had blown out to $204 million plus interest.[23]

In October 2017, the *Australian* reported that it was in possession of "many" life insurance policies, showing that **Westpac** had "ripped off its own banking customers by selling them overpriced [by 4.5 per cent] life insurance products identical to cheaper policies it sells to the public through independent financial advisers".[24]

The Big Four, especially **CBA**, also face class actions by customers manipulated into paying for unneeded and useless credit card insurance.[25]

Money Laundering and Terrorism Financing

The 1997 interview with then-National Secretary of the Australian Federal Police Association Luke Cornelius, excerpted below **(page 59)**, demonstrates that dirty-money flows have long been rife in Australia's deregulated financial system, in which enforcement of anti-money laundering regulations depends heavily upon self-reporting by banks. The only change in the intervening 20 years, is that modern technology has made it even easier for criminals to get money in and out of the country.

In July 2017, AUSTRAC made a report on compliance with the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF). Keep that acronym in mind, along with the shorter abbreviation "ML/TF", referring to the activity covered by the act—"money laundering and terrorism financing". AUSTRAC stated that 60 per cent of securities and derivatives market participants and 74 per cent of foreign exchange and contracts for difference[26] providers had not submitted a single suspicious matter report to AUSTRAC between 1 April 2014 and 31 March 2016.[27]

In August 2017, AUSTRAC initiated Federal Court proceedings against **CBA** for "serious and systemic non-compliance" with AML/CTF, resulting in 53,700 breaches. The case is Australia's largest money-laundering scandal ever. By rolling out its new "smart" ATMs, called Intelligent Deposit Machines, in 2012 without conducting risk assessment beforehand, **CBA** for a period of three years "did not comply with the requirements of its AML/CTF program relating to monitoring transactions

18. ASIC media release no. 14-224, 22 Sept. 2014.

19. Senate Economics References Committee report on "Performance of the Australian Securities and Investments Commission", June 2014.

20. Ben Butler and Nassim Khadem, "Treasurer Joe Hockey hoses down CBA royal commission calls", *Sydney Morning Herald*, 3 July 2014.

21. Adele Ferguson and Ruth Williams, "Whistleblower's NAB leak reveals persistent bad behaviour in financial planning, fuels royal commission calls", *Sydney Morning Herald*, 21 Feb. 2015.

22. *Financial advice: Fees for no service* (ASIC Report 499), Oct. 2016.

23. ASIC media release no. 17-145, 19 May 2017.

24. "Westpac 'rips off clients' with life insurance", *The Australian*, 13 October 2017.

25. "Nation's big banks facing class actions over 'worthless' credit card insurance", News Corp Australia Network, 11 March 2018.

26. A contract for difference is a speculative financial derivative used to gamble on the price movements of any asset, including another derivative, without its ever being owned by either party; in essence, a side bet on the value of other side bets.

27. *Australia's securities and derivatives sector: Money laundering and terrorism financing risk assessment*, AUSTRAC, July 2017.

on 778,370 accounts". The bank thus failed to submit to AUSTRAC 53,506 mandatory "threshold transaction reports" on cash transactions of $10,000 or more, with a total value of around $624.7 million. AUSTRAC further alleged that **CBA** "failed to report suspicious matters either on time or at all involving transactions totalling over $77 million", and that, even after the bank became aware of suspected money laundering through its accounts, "it did not monitor its customers to mitigate and manage ML/TF risk, including the ongoing ML/TF risks of doing business with those customers".[28] **CBA's** non-reporting continued, despite increasing expressions of concern and demands for information from both the New South Wales and Australian Federal Police, beginning in May 2015 and culminating in a 4 April 2016 Federal Police raid on **CBA** premises for records relating to accounts connected with a $315 million methamphetamine seizure in Perth.[29]

APRA chairman Wayne Byres acknowledged to *The Australian* that his agency had been aware that AUSTRAC was investigating the smart terminals of CBA, prior to the opening of the case in August 2017.[30]

In its defence, **CBA** said it would admit "in whole or part" to some allegations of failure to supply suspicious matter reports and conduct due diligence on its customers. It also admitted that it "did not adequately adhere to risk assessment requirements" for its Intelligent Deposit Machines, and acknowledged that its 53,506 threshold transaction reports were filed late. The bank claimed, however, that these blunders "all resulted from the same systems related [i.e. computer] error" and should thus be treated as a single offence.[31] A **CBA** insider told independent investigative journalist Michael West a different story. West reported on 11 August 2017: "The person, who does not wish to be identified, said bank executives were warned about system problems involving the interface with AUSTRAC but said, 'No one gave a rat's arse … Compliance always comes last in **CBA** and it is frequently and quietly dropped, overlooked and omitted. As for this "software error" … haha'."[32]

As the **CBA** money laundering scandal broke, it quickly became evident that cash deposits were not the only transactions the bank had failed to monitor. *The Australian* reported in September 2017 that a confidential internal review, presented to senior bank executives in February 2017 had found that transaction monitoring was non-existent or minimal for two-thirds of the activity in **CBA's** Institutional Banking & Markets Division.[33] Automated, compliant transaction monitoring was completely absent in **CBA's** divisions for debt capital markets, leasing, options and derivatives, commodities, and institutional lending in Australia, and for international locations such as Singapore, Hong Kong, Shanghai, Tokyo, London and New York. The **CBA** case is so big that officials from several U.S. law enforcement agencies moved quickly to request information from the bank for their own, parallel investigations, Thomson Reuters reported 4 September 2017.

In December 2017, AUSTRAC amended its claim against **CBA**, adding 100 new allegations. In one of them, AUSTRAC alleged that **CBA** accounts had been used by a convicted terrorist, attempting to move money from Australia to Lebanon, and that **CBA** had been slow to report the activity and close the account. AUSTRAC also, the *Australian Financial Review* reported, claimed that "**CBA** accounts were used by several 'money mules' who attempted to launder money out of Australia for organised crime groups dealing in drugs and firearms."[34]

Cumulative malfeasance by CBA was so great, that in August 2017 APRA announced a "prudential inquiry" into the bank's "governance, culture and accountability". In a classic example of the fox minding the henhouse, however, APRA named to the three-member panel for the inquiry Dr John Laker, who had headed APRA itself during 2003-14, when CBA's misbehaviour flourished, unchecked by APRA.

In September 2017, the *Australian Financial Review* cited "confidential briefings by federal and state policing agencies" indicating that **CBA** was not alone in money-laundering: "Gaping holes in the anti-money laundering systems of Australia's big banks are being exploited by crime groups to wash up to $5 million in drug cash a day," and the Big Four—"**Westpac**, **ANZ**, **NAB** and **CBA**—*have all been used by money laundering syndicates to launder drug funds offshore*."[35] (Emphasis added.)

In December 2017, the Paris-based intergovernmental Organisation for Economic Cooperation and Development (OECD) warned that Australia's residential real estate sector is also "at significant risk for money laundering", because real-estate agents, accountants, auditors, conveyancers, lawyers and other Designated Non-Financial Business Professionals have no obligations under AML/CTF.[36] The OECD pointed to previous AUSTRAC reviews that had found deficiencies in the due diligence procedures of 13 financial institutions in January-June 2016.

28. AUSTRAC media release, 3 Aug. 2017.

29. Neil Chenoweth, "AFP raided CBA for non-disclosure in AUSTRAC court case", *Australian Financial Review*, 6 Aug. 2017.

30. Michel Roddan, "APRA knew of CBA's Austrac issues", *The Australian*, 14 Sept. 2017.

31. James Eyers, "AUSTRAC to allege additional breaches by CBA", *Australian Financial Review*, 13 Dec. 2017.

32. Michael West, "CBA says 'software error'. Insider says 'no one gave a rat's arse'", michaelwest.com.au, 11 Aug. 2017.

33. Leo Shanahan, "CBA at risk of investigations by global regulators" *The Australian*, 1 Sept. 2017.

34. James Eyers, "CBA used by 'money mules', convicted terrorist: AUSTRAC", *Australian Financial Review*, 14 Dec. 2017.

35. Nick McKenzie, Richard Baker, Georgina Mitchell, "It's not just CBA: all the banks are exposed to millions in money laundering", *Australian Financial Review*, 14 Sept. 2017.

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Banks Are Complicit in the Drug Trade

The Citizens Electoral Council's Jan./Feb. 1998 New Citizen newspaper published a feature headlined "Australia Needs a Real War on Drugs!", in opposition to the campaign to legalise dangerous narcotics which was being funded by financial mega-speculator George Soros. Included in that feature was an interview done 17 October 1997 with Luke Cornelius, who at the time was national secretary of the Australian Federal Police Association (AFPA), the union for federal police officers.

On behalf of its members, the AFPA was fighting against government policies that were raising the white flag of surrender to the global drug trade, including budget cuts to key agencies like the Australian Federal Police (AFP), and the move to "harm-minimisation" as a way to legalise drugs by stealth. What stands out in this interview is that, back in 1997, law enforcement had a clear perspective that the drug scourge could be defeated, if it were seriously addressed. But that didn't happen. Today it is a consensus that "the war on drugs has failed", but as Cornelius revealed, there never was a serious war on drugs, which would involve not primarily mass arrests of the end-users of the drugs, but the provision of massive resources to the agencies capable of stopping drugs from getting into the country.

The most important detail Cornelius revealed, was that the banking system was central to the drug problem, as banks were conspiring with organised crime to launder the proceeds. Twenty years later, the CBA money-laundering scandal, along with earlier revelations about the top British banks HSBC, Standard Chartered, and Coutts laundering drug money, has vindicated the strong charges Cornelius levelled against the banks. This interdependence between the banking system and the drug trade explains why there has never been a serious war on drugs, and holding the banks to account for their complicity in the drug trade is the key to finally defeating this deadly scourge that is tearing apart the fabric of society.

The full interview was reprinted in the Australian Almanac, Vol. 8, No. 27, attached to the 27 Sept. 2017 Australian Alert Service and may be accessed at www.cecaust.com.au/cornelius.pdf.

'Australia Has Never Had a War on Drugs'

New Citizen: Your predecessor, the outgoing national secretary, stated that Australia has never had a war on drugs.

Luke Cornelius: That's quite right. When you bear in mind the Access Economics report released recently, states that there is $7 billion in economic activity derived by illicit drug trafficking. Australia has never had a war on drugs—we've had a token effort where you've had high-profile seizures based on tip-offs. But let's compare the economic activity which is generated from drug trafficking with the actual investment of government into dealing with this problem. We know, if we are to accept the findings of the Access Economics report, which was released a week and a half ago [early October 1997], that the economic activity generated by illicit drug-trafficking amounts to some $7 billion. The Australian Federal Police would be lucky to be able to commit $15 million of its budget specifically to drug law enforcement. *Now $15 million worth of investigation, into an enterprise which generates $7 billion worth of economic activity is nothing more than a token effort.* (Emphasis added.) <…>

In terms of dealing with the traffickers and drug distributors within Australia, that is clearly the responsibility of State law enforcement agencies. But once again, dealing with distribution networks within Australia is a high-cost exercise. The Australian Federal Police and other Commonwealth law enforcement agencies have a primary objective in dealing with those who import the drug or indeed, taking up the investigation of drug-related activity overseas. It's here where the injection of resources would derive the most value in terms of fighting a war against drugs. The analogy that I use is a simple one, and that is a garden tap at a sprinkler. The Commonwealth should be directing resources to turning the tap off rather than trying to soak up the many droplets of water which have spread right across the country by the sprinkler—that is at the distribution-user end of the market. *So in effect, the Australian Commonwealth Government has never really taken this drug problem seriously, because it has failed over the years of the existence of the Australian Federal Police since 1979, to effectively resource efforts aimed at turning off the tap of drug supply into this country.* (Emphasis added.)

Money Laundering

NC: Casinos have been referred to as honey pots for organised crime to launder their dirty money. Now the New South Wales government recently banned 30 reputed organised crime figures from the Sydney Harbour Casino—including two of its best customers who had spent, incredibly, up to $35 million there. Then there are numerous reports that casino chips are being intercepted in Asia, heading back into Australia—the casino gambling chips being increasingly used as a form of underground currency. Could you comment on that?

LC: Money laundering relies on a number of techniques used to turn illicitly derived money or property into so-called clean money. The commodities which

are used are diverse; you've mentioned casino gambling chips. Other favoured commodities in the money-laundering business include traffic in gold bullion; in South Australia—the traffic in jade; and in other locations around Australia, the traffic in other high-valued commodities. <…>

The money laundering activities which are more difficult to track are those which involve the conversion of one form of finance into another. That is for example, best illustrated by the bullion trade. That is, one can go to a bullion dealer and purchase a quantity of bullion, obtain a receipt for that bullion and then effectively take that bullion overseas, use it as a basis for overseas investments and then basically be able to cream off any income generated from those investments as clean income. That activity of course, is now subject to regulation under what is called the Cash Transaction Reports Agency [now AUSTRAC] and the *[Cash] Transaction Reports Act,* which requires bullion dealers and other cash dealers to report transactions over a certain value. So there are ways in Australia of actually regulating, or trying to track, the flow of cash through the Australian economy. However, given that the Australian economy, on a daily basis, traffics in very large amounts of cash, this of itself is a difficult system to manage because of the sheer volume of transactions which take place on a daily basis. So in many respects the use of that kind of intelligence is generally used by law enforcement agencies after their suspicions have already been pricked, in relation to the activity of individuals that they are investigating. <…>

NC: How would the Australian Federal Police Association reconcile the fact that one person in the world by the name of George Soros, has mounted a $15 million campaign in the United States, to declare a war on the government's war on drugs, and that this same person has recently diluted his holdings in Sydney Harbour Casino, from over 12 per cent to around 5 per cent, which makes him still one of the largest shareholders in the casino. How would you reconcile that?

LC: I am not personally aware of Mr Soros's alleged activities, but I must say that I would question the motives of anyone who is seeking to challenge or undo the hard work of law enforcement officers by seeking to suspend the war on drugs, and in light of that, I'd come much closer to home and point the finger at a very influential lobby group, namely Access Economics, and ask the question—well, what do they mean by suggesting that this $7 billion of activity should be brought within the mainstream so that it can be taxed by the government. I mean that is a reprehensible social policy, not only because it entails surrendering to organised criminal interests, but also because Access Economics has failed miserably in discharging its social responsibility to the fabric of this community—by failing to balance against that $7 billion worth of activity, the social cost and misery which is generated as a result of the illicit drug trade. <…>

'Financial Institutions Conspiring with Organised Crime'

NC: You mentioned before our interview that your experience is in drug enforcement. The International Police Organisation have said for years drug barons have set up banks specifically to launder money, and using existing banks as well. I would use the example of the Nugan Hand Bank and various others. Given sufficient resources, how would you want to see that problem tackled of going after money laundered through the legal banking system?

LC: There is a preliminary question which must first be addressed, and that is, it must be recognised that any business which generates $7 billion worth of economic activity on an annual basis, is having a significant impact on the Australian economy. Somehow that black money is becoming incorporated into the legitimate financial institutions in Australia. Financial institutions in Australia today cannot guarantee or be sure that their money is untainted. It is a sure bet that every financial institution in Australia, either unbeknownst to it, or with its turn-a-blind-eye approach, is happily dealing in, and engaging in transactions which involve tainted money.

Financial institutions of course, will hide behind client and customer confidentiality, they will hide behind the traditional protections which financial institutions have hidden behind ever since Adam Smith came up with his fundamental principle of the guiding hand of the market, that is allow market forces to determine social policy and everything else will fall into place. *Financial institutions, in turning a blind eye to this real problem of dealing with tainted money, are conspiring with organised crime in Australia to the extent that the very integrity of the economic fabric of this country is under threat,* simply because, with money you buy power. (Emphasis added.) And if financial institutions aren't prepared to take social responsibility for the transactions, which they are prepared to engage in, then they bear a responsibility for the capacity for organised crime to take over and direct social policy in this country.

Part 3

Step One: Glass-Steagall Banking Separation

In the first 100 days of Franklin Roosevelt's Presidency, in 1933, the U.S. Congress enacted a set of measures to halt the down-spiral of the Great Depression. Foremost among them was the *Banking Act of 1933*, known as the *Glass-Steagall Act* after its lead sponsors, Senator Carter Glass and Congressman Henry Steagall. In its 37 pages, the law mandated the total separation of commercial banking from the speculative investment banking that had caused the crash. The *Glass-Steagall Act* put the Wall Street predators on a leash, enabling Roosevelt to mobilise public credit, through the Reconstruction Finance Corporation (RFC), for investment in the USA's physical economic recovery.

Near the end of World War II, the Allied nations met in Bretton Woods, New Hampshire, to construct a stable international monetary system to facilitate economic recovery from the war, and the rise of sovereign nation-states, freed from the shackles of those FDR had called the "economic royalists" of Wall Street, and from the system of British and other colonialisms built upon looting subject populations. A cornerstone of the Bretton Woods system was fixed exchange rates among currencies, to allow for stable international trade in a setting of reliable economic growth, while the International Monetary Fund and World Bank would assist nations in achieving prosperity and national sovereignty. Almost from the day the Bretton Woods agreements were signed in 1944, however, London and Wall Street set out to subvert them, by taking over the World Bank and IMF, forcing "conditionalities" (looting) down the throats of subject nations, and crusading to end fixed exchange rates, so as to open up all currencies to unlimited speculation. That did happen on 15 August 1971, when, under pressure from Wall Street and London, U.S. President Richard Nixon allowed the U.S. dollar—the main world currency—to float against others. Today, derivatives (gambling bets) based on interest rate and foreign exchange rate changes are the cornerstone of the quadrillion or more dollars in speculation worldwide.

At the direction of London and Wall Street, further deregulatory measures followed the end of Bretton Woods, among them ones that directly assailed Glass-Steagall by allowing commercial banks to trade freshly designed derivative financial products such as "mortgage-based securities". The deregulation ushered in a series of financial shocks and crises: the U.S. savings and loans collapses of the 1970s, the 1986 Big Bang of liberalisation in the City of London, the 1987 Wall Street crash, and the junk bond crisis tied to the rash of leveraged buy-outs in the 1980s. The dam fully broke when U.S. President Bill Clinton signed the complete repeal of Glass-Steagall in 1999, allowing the explosive growth of derivatives speculation and the creation of the too-big-to-fail (TBTF) banks.

TBTF bank representatives like to intone, "Glass-Steagall would not have stopped the 2008 crash", arguing that Lehman Brothers and other banks whose collapse triggered the crash were strictly investment banks, not so-called universal banks (combining commercial lending and financial "investment"—speculation), while many universal banks, such as Barclays, did not need taxpayer bailouts. In reality, though, banks like Lehman Brothers were only able to make large-scale derivatives bets because they were underwritten by other banks, including large, deposit-taking commercial banks, which Glass-Steagall would have forbidden. Barclays et al. escaped the need for bailouts only because most of the counterparties to their derivatives bets were bailed out.

In reversing the disastrous effects of financial deregulation, restoration of Glass-Steagall banking separation **(diagram, back cover)** is the indispensable first step. As demonstrated in this report as a whole, it will need to be accompanied by a tough crackdown on financial fraud, and to be followed in each country by comprehensive banking and financial reform, and the establishment of a national bank to generate credit for the physical goods-producing and infrastructure sectors of the economy. But the first step, Glass-Steagall, will already have a far-reaching impact, bringing to a halt the wholesale looting of the public coffers (bail-out) and private resources (bail-in) to save the speculation-ridden TBTF banks.

Here in Part 3 of our report, we present the essentials of Glass-Steagall from two perspectives. First **(page 62)**, the CEC's 2017 policy statement "Proposal for Glass-Steagall Separation of Australia's Banking System" reviews the need for Glass-Steagall in this country, and the recent history of the fight to restore it in the United States and the UK. "China: Glass-Steagall Banking System and the Belt and Road Initiative" **(page 66)** then explores the one major nation on the planet where Glass-Steagall principles are currently being applied, with stunning positive results.

Glass-Steagall is recent enough in historical memory, that leading political and business figures in many countries know that it is available, and that it will work.

Proposal by the Citizens Electoral Council of Australia for Glass-Steagall Separation of Australia's Banking System

This CEC policy paper from July 2017, slightly edited for publication here, establishes that for depositor protection, financial security and stability, and a banking system that meets the credit needs of the real economy, Australia must separate commercial banking from investment banking and other financial services.

Introduction

The Australian banking system in its present regulatory form is a threat to Australians and a systemic risk to the Australian economy. Unless the Commonwealth Government steps in and reorganises the banks, through Glass-Steagall separation of commercial banking from all other financial services, Australia will suffer a devastating financial collapse.

Four very large, and one smaller, too-big-to-fail (TBTF) banks dominate Australia's banking system: CBA, NAB, ANZ, Westpac and Macquarie Bank. They materially benefit from an implicit guarantee that the government could not, and would not, allow them to fail in the event of a crisis.[1]

The TBTF banks hold more than 80 per cent of Australian deposits. These are ostensibly guaranteed by the government up to $250,000 per person per Authorised Deposit-taking Institution (ADI). Yet Australia's Council of Financial Regulators (CFR) and the Financial Stability Board (FSB) at the Bank for International Settlements have already noted that the government would not have the funds to honour its deposit guarantee in the event of a failure of any of the Big Four.[2]

The government, banks and media repeatedly describe the TBTF banks as "sound", claiming that they were largely unaffected by the 2008 global financial crisis—an alleged success habitually credited to Australia's effective prudential regulation system. This claim is false. On the weekend of 11-12 November 2008 all five TBTF banks were forced to beg the Commonwealth Government for guarantees to keep them solvent.[3] Prime Minister Kevin Rudd obliged, extending guarantees for the banks' overseas borrowings, deposits, and, effectively, their exposure to the inflated housing market, through a tripling of the First Home Owner Grant, resulting in even further increases in house prices.[4]

Today, the TBTF banks are even more at risk than in 2008. They have increased their exposure to the housing market, with mortgages now accounting for more than 60 per cent of the assets of each of the Big Four. Already in 2007 a confidential report[5] by the Australian Prudential Regulation Authority (APRA), the bank regulator, warned that lax bank lending standards—which APRA itself had supervised—had created a property bubble that presented a threat to the banks. Since then, mortgage debt has more than doubled, and to keep fuelling the market the banks have increasingly resorted to interest-only loans, which comprised 40 per cent of all housing loans in 2016. This is especially alarming when compared with the USA, where 25 per cent of all home loans in 2005 were interest-only, a situation *The Financial Crisis Inquiry Report* (produced for the U.S. government in 2011) blamed for the wave of defaults in 2007-08 that triggered the 2008 financial crash. While APRA boasts that it has overseen a major increase in capital requirements for the banks since 2008, these requirements are less than they are claimed to be because of the so-called "risk-weighting" applied to mortgage loans.[6] All of these factors force the conclusion that a property crash that triggers a banking crisis is inevitable in the near term.

The Republic of Ireland demonstrates what happens when a government guarantees banks that are exposed to a property bubble. The implosion of the Irish property bubble in late 2008 collapsed Ireland's banks, forcing the government to honour its guarantee of the banks' huge liabilities, which led to national

1. The guarantee is Australia's worst kept secret, only belatedly acknowledged by government ministers in relation to the 2017 bank levy, but long assumed by domestic and international financial markets.

2. Minutes of 27th meeting of CFR, 19 June 2009; FSB Peer Review of Australia 21 September 2011.

3. Ross Garnaut and David Llewellyn-Smith, *The Great Crash of 2008* (Carlton: Melbourne University Press, 2009).

4. The tripled First Home Owner Grant was announced as a housing affordability measure, but the Rudd Government's actual intention was to push up house prices—thus making housing *less* affordable—in order to prop up the market and save the banks from the same fate as those in the USA, UK, Ireland, Spain and other nations then suffering a property crash. Lenore Taylor and David Uren, *Shitstorm* (Carlton: Melbourne University Press, 2010), pp. 78-79.

5. "Secret APRA report warned lax lending standards could lead to banking crisis and recession", ABC 7.30 4 April 2016.

6. Bank capital is customarily defined as the excess of a bank's assets (cash, securities, and loans made by the bank) over its liabilities (customers' deposits in the bank, and the bank's debt to other banks and its bondholders.) APRA now requires banks to have capital equal to 10.5 per cent of total assets (the requirement was previously 8 per cent), but mortgages are risk-weighted at 25 per cent for the purpose of this calculation—it is assumed that no more than 25 per cent of mortgage loans are at risk of non-repayment. As mortgages account for more than 60 per cent of the Big Four banks' assets, the 10.5 per cent capital requirement, applied to only 25 percent of their mortgages, translates into a capital requirement of barely 1.5 per cent for these loans; even with other assets risk-weighted at 100%, the total capital requirement for the banks is less than 6 per cent of total assets.

bankruptcy, an IMF/EU bailout, and years of crippling austerity.

The other major point of alarm about Australia's banks is their massive exposure to derivatives, the risky financial instruments that caused the 2008 financial crisis. The banks claim their derivatives trades are normal hedging, but their exposure to derivatives is around eight times their assets, and has grown rapidly since 2008, from slightly less than $14 trillion to around $35 trillion. It is this incredible growth in derivatives that especially contradicts the claim of normal hedging. Three of the five TBTF banks—CBA, NAB and Macquarie—have stopped disclosing their true derivatives exposure. They claim that the much smaller "net" figure they disclose, called "fair value", is a true statement of their exposure and risk, but accounting experts who refute this method of accounting were proven correct in the 2008 financial crisis.[7]

The present condition of Australia's TBTF banks, combined with emerging threats in the domestic and international economy, including the sharp increase in global debt, the U.S. corporate debt bubble, and the intensifying European banking crisis, raises the need for the government to prepare for the likely failure of one or more of the TBTF banks. Due to their similar structures, a crisis in one of Australia's TBTF banks would likely be a crisis in all. The only effective measure to protect Australians against a financial crisis would be to implement full Glass-Steagall separation of the TBTF banks.

Glass-Steagall

The USA enacted the *Glass-Steagall Act* of 1933 following an explosive Senate inquiry into the 1929 stock market crash and ensuing depression. The legal counsel who conducted the inquiry, Ferdinand Pecora, exposed a predatory banking culture in which banks employed aggressive salesmen to sell risky securities to their unsuspecting depositors. The practices exposed by Pecora resemble the wealth management scandals that have wracked Australia's banks over the past decade or more.

Glass-Steagall forbade commercial banks with deposits from owning an affiliate that traded securities, from sharing directors with an investment bank, and from evading these provisions by having any financial dealings with affiliates except in the most stringently regulated and controlled circumstances; it also established the Federal Deposit Insurance Corporation to insure bank deposits. Its purpose, stated in the Act's preamble, was: "To provide for the safer and more effective use of the assets of banks, to regulate interbank control, to prevent the undue diversion of funds into speculative operations, and for other purposes." The Act's banking separation provisions were in force for 66 years until they were watered down in the 1980s[8] and then repealed by the *Financial Services Modernisation Act of 1999 (Gramm-Leach-Bliley Act)*.

The record demonstrates that Glass-Steagall worked. In the three years between the 1929 stock market crash and the passage of the *Glass-Steagall Act*, more than 6,000 U.S. banks had failed. Under Glass-Steagall, however, from 1933 to 1999 there were no systemic banking failures in the United States (the savings and loan crisis in the late 1980s was due to the watering down of Glass-Steagall, S&L's having been granted explicit exemptions from the *Glass-Steagall Act*). Yet within nine years of its repeal, the collapse of Lehman Brothers—starting in its London centre—triggered a chain-reaction meltdown of the global banking system, which forced governments to intervene with massive taxpayer bailouts.

Following the 2008 crisis, many notable experts called for the restoration of Glass-Steagall, including:

- Former CEO Sandy Weill and former Chairman John Reed of Citigroup, the universal bank formed by the 1999 merger of Citibank with Travelers Insurance and its investment bank subsidiary Salomon Smith Barney, which provided the impetus for the repeal of Glass-Steagall; Weill's colleagues had awarded him a plaque proclaiming him "The Shatterer of Glass-Steagall". In the 2008 crisis Citigroup required the largest government bailout of any bank in the world. By 2012 both men admitted the repeal of Glass-Steagall had been a grave mistake, and called for its return. Reed emphasised that the two types of banking are completely different, and must be separate.
- Lord Nigel Lawson, former UK Chancellor of the Exchequer under Margaret Thatcher, who oversaw the 1986 Big Bang deregulation of the City of London, ending the separation of commercial and investment banking in the UK, and raising pressure for the repeal of Glass-Steagall in the USA. Lawson regards the ending of banking separation as a mistake, and also emphasises the differences in the nature of the two types of banking. In 2013 he led a push in the UK House of Lords to amend the *Financial Services (Banking Reform) Act* to legislate full-blown Glass-Steagall separation in the UK; the amendment fell short by just nine votes.
- Don Argus, former CEO of National Australia Bank and former Chairman of BHP, said in the *Australian* of 17 September 2011: "People are lashing out and creating all sorts of regulation, but the issue is whether they're creating the right regulation…. What has to be done is to separate commercial banking from investment banking."

And many more, including:

7. David Hirst and Andrew Linden, "Banks face challenge on billions of dollars of off-balance-sheet exposure", *Sydney Morning Herald,* 4 Nov. 2008.

8. In one instance, the Office of Comptroller of the Currency (OCC) in 1987 allowed commercial banks to ignore the *Glass-Steagall Act*'s ban on trading securities, by ruling they could sell the new financial products called mortgage-backed securities (MBS); two decades later, these MBS products sparked the global financial crisis.

• Bankers: Sir Martin Taylor, former CEO of Barclays; Peter Hambro of Hambros Bank family; Philip Purcell, former chairman and CEO of Morgan Stanley; David Komansky, former CEO of Merrill Lynch.

• Regulators: Thomas Hoenig, vice president Federal Deposit Insurance Corporation; Richard Fisher, president and CEO of Dallas Federal Reserve; Sheila Bair, former chair FDIC; Andrew Haldane, Bank of England executive director for financial stability; Daisuke Kotegawa, former deputy director of the Ministry of Finance, Japan, and former executive director for Japan at the IMF; David Stockman, former director of the U.S. Office of Management and Budget.

• And a cross-section of politicians from many parties have called for Glass-Steagall banking separation: U.S. President Donald Trump; Republican U.S. Senator John McCain, Democratic Senators Elizabeth Warren and Maria Cantwell, and Independent Senators Bernie Sanders and Angus King; the 2016 platforms of the U.S. Democratic Party and Republican Party; UK Leader of the Opposition Jeremy Corbyn; UK Shadow Chancellor of the Exchequer John McDonnell; Andrea Leadsom, British Conservative MP and former city minister, and former senior banker at Barclays; Lord Paul Myners, former British Labour MP and city minister; Sir Peter Tapsell, former minister and Conservative father of the House of Commons; and the late Malcolm Fraser, former prime minister of Australia.

Banking Should Be 'Boring'

In the United States Senate, Senators Warren, McCain, Cantwell and King have introduced the 21st Century Glass-Steagall Act of 2017 (**page 71**):

> To reduce risks to the financial system by limiting banks' ability to engage in certain risky activities and limiting conflicts of interest; to reinstate certain *Glass-Steagall Act* protections that were repealed by the *Gramm-Leach-Bliley Act*, and for other purposes.

Under Section 2, subsection (b) Purpose, the bill stipulates:

> The purposes of this Act are—
>
> (1) to reduce risks to the financial system by limiting banks' ability to engage in activities other than socially valuable core banking activities;
>
> (2) to protect taxpayers and reduce moral hazard by removing explicit and implicit government guarantees for high-risk activities outside of the core business of banking; and
>
> (3) to eliminate conflicts of interest that arise from banks engaging in activities from which their profits are earned at the expense of their customers or clients.

Neither the USA's extremely complex, 848-page *Dodd-Frank Act 2010*, the UK's *Financial Services (Banking Reform) Act 2013* (with its fake separation called "ring-fencing"), nor the Bank for International Settlements (BIS)-Financial Security Board bail-in policy of increasing the Total Loss-Absorbing Capacity (TLAC) of "globally systemically important banks" have succeeded in solving the problem of TBTF banks, which are in fact bigger and more TBTF than in 2008. The 21st Century Glass-Steagall Act would solve TBTF by restoring the Glass-Steagall firewall, under which no failing bank was able to threaten the entire banking system.

Glass-Steagall for Australia

While Australia has previously not enacted specific Glass-Steagall legislation, regulations in place until the deregulation of banks commenced in the 1970s and 1980s effectively imposed many similar restrictions.

The Commonwealth Parliament has Constitutional authority over banking (other than state banking). The 1937 Royal Commission on Banking found that the Commonwealth Government is the supreme authority in the Australian financial system. It is therefore the responsibility of the Commonwealth Government to protect the Australian people and economy from a banking crash.

The Commonwealth Government must not outsource this responsibility to the so-called "independent" Reserve Bank or APRA. Like their international counterparts, these agencies have overseen the regulatory failings that have enabled the banks to ruthlessly exploit their customers and inflate massive speculative bubbles in the housing market and derivatives trading. Instead of rectifying these failings, they have applied in Australia the failed policies of the BIS, such as "bail-in" bonds for TLAC, which have put more Australians at financial risk.

The core business of banking—taking deposits and providing credit—is a socially indispensable public function; in this respect, various experts have likened banking to utilities that provide power and water etc., which the public expect to be government-owned, or at least heavily government-regulated.[9] As the present condition of Australia's TBTF banks demonstrates, the deregulation of banking, and resulting farce of self-regulation, have fatally undermined this public function. The purpose of the strict regulations that the government imposed on the banks prior to deregulation was to ensure a stable banking system that functioned in the national interest.[10] Today it is in the national interest to avert a banking

9. Ben Chifley, Australia's war-time treasurer and later prime minister, likened banks to utilities in his dissenting report on the 1937 Banking Royal Commission; more recently, Minneapolis Federal Reserve President Neel Kashkari, the former Goldman Sachs executive who managed the Troubled Asset Relief Program (TARP) bailout of the U.S. banks in 2008-09, also concluded that banks should be regarded as utilities.

10. Following the 1892 financial crash, which wiped out most of the colonial banks, Australia's governments imposed strict capital requirements

crash and to reorganise the banking system to serve the economy; therefore, the Commonwealth Government must again assert its regulatory authority. Ironically, the most effective regulation is also the most efficient and least complex—Glass-Steagall.

The model that Australia should emulate to enact Glass-Steagall separation of the banking system is provided in the 21st Century Glass-Steagall bill currently before the U.S. Congress. Applied to Australia's banking system, it would involve the government legislating to direct all so-called universal banks (also known as vertically integrated banks or banking groups) to establish their retail divisions as separate, stand-alone commercial banking companies. The legislation would mandate a date by which the separation must be complete, encompassing a transition period of two years. Either the directors of banks would implement the separation under strict government supervision, or the government would step in and do it for them. In this period, the banks would operate under explicit government protection, and the government should implement security measures such as capital controls, to guard against speculation and capital flight.

While the mechanics of Glass-Steagall separation would vary slightly depending on the structure of the bank, the outcome would be uniform. Australia's predominantly commercial (retail) banks, including the Big Four and Bendigo, etc., would divest their various other divisions—be they investment banking, insurance, wealth management, superannuation or stock broking—into one or more entirely separate businesses, under different ownership and management from the retail division, which would now be the whole of the bank. For the predominantly investment banks, such as Macquarie Bank, it would be the retail divisions that were split off. The separation must also apply to foreign banks, which are predominantly investment banks, but some such as HSBC and Citibank operate as universal banks, and will be required to divest themselves either of their Australian retail banking divisions, or their other financial services if they want to continue to operate in Australia. (The two mentioned are particularly notorious: as noted, Citigroup required the biggest taxpayer bailout of all banks in the 2008 crisis, while HSBC in 2011 was caught laundering money for drug cartels and terrorists.)

The separation process would be straightforward, with the exception of the banks' over-the-counter derivatives obligations, which are a complicated mess. Those trades have been effectively underwritten by the banks' deposits. British banking economist John Kay, the author of *Other People's Money* and an advocate of Glass-Steagall, notes that separating deposits from all trading in securities and derivatives would remove the subsidy that deposits provide to such trading, which would also remove most, if not all, of the risks to deposits: "The subsidy to trading activities arising from the availability of the deposit base as collateral should be removed; the likelihood that the taxpayers' guarantee of routine deposits will be called will therefore be limited, if not altogether eliminated", Kay writes.[11]

To clear the retail banks of the derivatives obligations that their deposits have been used to underwrite, the derivatives would have to be "netted out" and cancelled. Daisuke Kotegawa, formerly the deputy director of Japan's Ministry of Finance and an expert at successfully resolving banking derivatives crises, advises announcing a date on which the banks' derivatives will be cancelled, to give their counterparties time to unwind their contracts, and then cancelling them on that date.[12] It is not the government's responsibility to honour the claims of counterparties.

At the end of this process Australia's financial system would be safer, less concentrated, and more productive. While CBA, NAB, ANZ and Westpac would still be large commercial banks, they would be smaller institutions, and no longer giant, vertically-integrated conglomerates of investment banking, insurance, wealth management, superannuation and stock broking. The government would still guarantee deposits as an ultimate safety net, but the real security for deposits, and the real strength of the banks, would come not from the size of the banks, but from being strictly separated from securities and derivatives trading. With the banks not being able to use their deposits to subsidise other, non-bank businesses, there would be more credit available for lending into the real economy.

Conclusion

The Australian government will have to address a systemic banking crisis; its only choice will be whether to act before or after the crisis. The 21st Century Glass-Steagall bill currently before the U.S. Congress, which applies the lessons painfully learned from the 2008 banking collapse, provides an invaluable blueprint for pre-emptive action the Australian government can take to avert a similar, or likely worse, banking crisis in Australia. The time to act pre-emptively, however, is a luxury that is fast running out.

on banks, which successfully guarded against a repeat of the crisis. During the national emergency of WWII, Prime Minister John Curtin and Treasurer Ben Chifley directed the government-owned Commonwealth Bank to heavily regulate the private banks, in order to ensure that the national banking system provided the credit necessary for the war effort. Such regulations were an accepted responsibility of governments until the deregulation ideology took hold in the 1980s, with disastrous consequences. The USA's 2011 *Financial Crisis Inquiry Report* placed the blame for the 2008 crash squarely on deregulation and the weakening of bank supervision.

11. John Kay, *Other People's Money* (London: Profile Books, 2015), Chapter 10: The Reform of Structure.

12. "Japanese expert's solution for banks: Glass-Steagall, jail bankers, cancel derivatives", CEC media release 13 October 2016. Mr Kotegawa visited Australia in March 2014 and met with senior staff of the Commonwealth Treasurer (Joe Hockey) to recommend that Australia implement Glass-Steagall.

China: Glass-Steagall Banking System and the Belt and Road Initiative

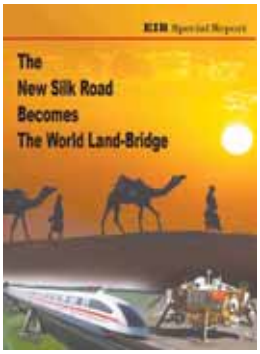
The germ of a new, just world economic order already exists. Its leading edge is China's Belt and Road Initiative (BRI), unveiled by President Xi Jinping in his announcements of, first, the Silk Road Economic Belt during a September 2013 speech in Kazakhstan and then, the next month in Indonesia, the Maritime Silk Road. China is promoting the BRI infrastructure cooperation in bilateral agreements, as well as through the Shanghai Cooperation Organisation (SCO) and BRICS (Brazil, Russia, India, China, South Africa). Xi and President Vladimir Putin of Russia have launched coordination between the BRI and the Eurasian Economic Union (Armenia, Belarus, Kazakhstan, Kyrgyzstan, Russia).

Few people realise that the success of China's extraordinary growth plans has relied on the implementation of credit and banking policies, which incorporate the Glass-Steagall principle of banking separation to protect productive lending from speculative.

Twenty years ago, these Eurasian continental development schemes were only an idea. The pictures below illustrate the Eurasian Land-Bridge idea in initiatives by China, as well as publications of the CEC and EIR Special Reports, because the international LaRouche movement has been involved with bringing it to life since 1992. Indeed, ideas have the power to change history!

At the September 2016 Group of 20 summit in Hangzhou, Xi situated the BRI in China's achievement of the past three decades: 700 million people have been lifted out of poverty, in a stunning "endeavour never undertaken in the history of mankind". Now, he said, clearly aware of the looming next global crash, "we can no longer rely on fiscal and monetary policy alone". Rather, "We have to create a chain of win-win global growth" based on scientific and industrial revolutions, a "new path of economic development" worldwide, "to abolish poverty and hunger".

To finance its extraordinary growth, China implemented Glass-Steagall-modelled banking reform in 1993. It has issued credit at the rate of $4 trillion (equivalent) annually since 2009, generating demand for real products, as well as investment in infrastructure abroad,



The Schiller Institute mapped the vision of a future Eurasian Land-Bridge (top right) in 1992. In 1996 Schiller Institute founder Helga Zepp-LaRouche addressed a seminal Beijing conference on the New Euro-Asia Continental Bridge (top left). Above (l. to r.): EIR's 1997 Special Report spread the proceedings of the Beijing symposium worldwide; the 2001 CEC book *What Australia Must Do to Survive the Depression* linked our country's future to success of the Land-Bridge; Zepp-LaRouche in a Chinese TV interview, 2014; and the 2014 EIR Special Report on a World Land-Bridge.

thus propping up the entire world economy. China's steps towards a new global financial and economic architecture include:

• new institutions to finance physical-economic growth, including the Asian Infrastructure Investment Bank and the BRICS New Development Bank, the New Silk Road Fund, the Maritime Silk Road Fund, and others;

• the Belt and Road Initiative (BRI), in which over 100 countries are now participating;

In 2013 Chinese President Xi Jinping announced his program for the new Silk Road Economic Belt (top two broken white lines) and the 21st Century Maritime Silk Road (lower broken line). Together the infrastructure and development projects, which include Chinese financing for projects in the cooperating countries, are called the Belt and Road Initiative (BRI). Source: Screen grab, Chinese Central TV.

• construction of more than 20,000 km of high-speed rail in the last decade, building a network that will reach 45,000 km by 2030, connecting all major cities in China; hundreds of new cities to house the hundreds of millions of people exiting from rural poverty;

• the two greatest water projects in the world, the Three Gorges Dam and the South-North water diversion program;

• the initial stages of the world's largest, most advanced nuclear energy program;

• the world's most ambitious space program, coupled with research on controlled thermonuclear fusion power, which could use helium-3, mined on the Moon, to power Earth's civilisation cheaply and cleanly for 7,000 years;

• uplifting its cultural life through the largest Western Classical music program in the world, planning to raise the share of scientifically literate citizens to 10 per cent by 2020.

Contrary to Anglo-American propaganda about a communist behemoth bent on global expansion, China is guided by the ideas of the great humanist Chinese philosopher Confucius (551-479 BC), as reflected in President Xi's constant emphasis on the BRI program's "win-win" nature, bringing mutual benefit for all nations involved.

Glass-Steagall and "American System" Principles in China's Banking System

Yi Gang, former deputy chairman of the People's Bank of China, wrote a chapter in a 2010 book on China's financial and economic policy, *Transforming the Chinese Economy*, edited by Fang Cai. In Yi's chapter, "The intrinsic logic of China's banking reform", he explains that China's banks have been governed by the Glass-Steagall principle—the separation of commercial banks from speculative finance—for nearly 25 years.

Yi writes that "at the initial stage of reform and opening"—the economic liberalisation launched in 1978—"China adopted the mixed operation ['universal banking'] model under which a commercial bank (China Communications Bank) was allowed to operate brokerage insurance business. But in the midst of economic overheating and financial chaos at the end of June 1993 … policymakers held mixed operations partly to blame and decided to draw on the U.S. experience of separating commercial banking from investment banking." Yi describes the banking and securities laws that were then passed in order to do this, and summarises: "China officially embarked on the path of separating commercial banking from investment banking, and told commercial banks to disconnect from their securities firms and investment companies."

Yi describes how the issue was debated again a decade later, with economists (himself included!) arguing in favour of "universal banking". But the trans-Atlantic financial blowout of 2007-08 settled the issue once again, in favour of the Glass-Steagall principle.

Moreover, a February 2012 Bank for International Settlements (BIS) report, "Development and Utilisation of Financial Derivatives in China", makes the point that financial derivatives transactions in China's commercial banks still represent only a small proportion of their overall business. Interest- and exchange-rate derivatives posted a volume of almost 6.8 trillion yuan in 2008 and 2009. By the end of June 2014, the total of interest-rate and exchange-rate derivatives had reached 9.7 trillion yuan, about US$1.42 trillion. Thus the derivatives market in China accounts for only 0.33 per cent of the global market, according to the BIS. Compared with China's share of global GDP, China's banking sector is very

cautious in its use of derivatives. This means, of course, that Chinese banks can handle the default of bad debts and failures of delinquent companies they have loaned to, without spreading a financial crisis.

As of November 2016, China's banking system had issued, according to some estimates, $20 trillion in credit for economic expansion since 2008. Nonetheless, its exposure to derivatives remained in the low single-digit trillions of dollars nominal value, out of the $600 trillion global derivatives total estimated by the BIS.

Despite having laws that separate commercial banks from shadow banks, on the Glass-Steagall model, China in 2016 further tightened up on commercial banks' derivatives exposure. The China Banking Regulatory Commission (CBRC) is doing what the Federal Reserve was tasked to do by the original *Glass-Steagall Act*—protecting commercial banks from themselves, limiting them to loans and generally sound investments.

CBRC's new regulations, Xinhua reported 28 Nov. 2016, establish more detailed guidelines on how banks must calculate their financial exposure to counterparty risk, in both exchange-traded options and futures, and over-the-counter derivative contracts on interest rates, etc. Xinhua reported that the new rules have raised banks' capital reserve requirements for derivatives positions, and, "compared with current requirements, set clear standards on what risk factors should take precedence under which circumstances. This reduces ambiguity that has been exploited by some banks to understate the risk they actually face in the derivatives business."

Who's Got it Right—China or the Financial Experts?

Economists and financial experts, whose assumptions led to the 2007-08 financial crisis and ensuing global economic downturn, either ignore or belittle the success of how the Glass-Steagall principle has been applied in China. Instead, they insinuate that China, which since then has single-handedly kept the world economy moving enough to prevent a full-blown depression, has got it all wrong. On 24 May 2017, just ten days after the Beijing Belt and Road Forum for International Cooperation, Moody's rating agency downgraded China's financial rating for the first time since 1989. The agency warned of "economy-wide debt continuing to rise as potential growth slows". Moody's also downgraded a number of Chinese state enterprises.

The Chinese Finance Ministry responded that the Moody's downgrade "was based on an inappropriate 'pro-cyclical' rating measure" and that the agency has "overestimated the difficulties China is confronting and underestimated the government capability in deepening structural reform and appropriately expanding aggregated demand". The ministry pointed to a "lack of necessary knowledge of China's laws and regulations" when it comes to concerns for the increasing debt of local government financing vehicles and state-owned enterprises.

China not only directs the bulk of new debt into the productive economy, but its Glass-Steagall-style banking regulation also prevents banks from gambling rather than lending into the real economy. President Xi has also initiated a crackdown on real-estate speculation, along with tighter regulations against illegal financial activities, and there is a process under way to reorganise bad debts and unwind excess leverage. Government-directed credit spent on nation-building, particularly public-sector infrastructure, is a different proposition. Intended for the long term, it doesn't show results on the balance sheet immediately.

No successful economy has ever been afraid of debt. Look at the impact of China's debt, reflected in the many projects of the Belt and Road Initiative (BRI) under way across Asia, eastern Europe, the Middle East and Africa. More concrete was poured in China alone in 2011-13 than was used in the USA during the entire 20th century! Building roads, tunnels, bridges and new cities not only results in necessary new infrastructure, but, crucially, in new jobs.

Credit, if used correctly, is simply an advance made for work to transform the economy, which pays off through the development of the nation and its productive output, the transformation of the population and the workforce, and the building of infrastructure which increases the potential of every industry and business it intersects.

"Experts" like Moody's analysts challenge the sustainability of China's growth model, but in reality, as long as there's something more to be done, the economy will always have potential for growth. It is up to governments to map a future trajectory and ensure necessary projects are incentivised and taken up.

Referring to ongoing reforms in China's financial sector in a 25 May 2017 article in the *Australian*, China correspondent Rowan Callick said that the Chinese government "continues to act as if it, rather than the market, is best placed to price risk". He derided the model by which "a government orders banks it owns to lend money its central bank prints, to local governments it fully controls (in theory, at least), which in turn raise more money by selling bonds to other banks, and which then give the money to state owned enterprises, national and local, to spend on infrastructure projects".

That sounds better than the system where a government fully owned by big corporations and banks, run by politicians who started their careers in those same corporations and banks and who return to them after their political careers end, uses those corporations and banks to sell off the nation's infrastructure and utilities, many of which are acquired by those same corporations and banks which are also paid a handsome fee for conducting the sale, and reap the profits forever more. Despite all the criticism, nobody actually expects China to collapse, or even go into recession anytime soon.

The Glass-Steagall Divide

It is instructive to contrast the economic results of China's application of the Glass-Steagall principle in banking, with those of countries which have eliminated Glass-Steagall. In the early 1990s, as Glass-Steagall banking regulation was in its final spiral of decline in the western world, China was just introducing it. While the West was consumed by the unprecedented financial gain associated with a growing criminal enterprise of gambling and looting, in the East, China envisioned a long-term plan to uplift its people from poverty and develop itself and the world. Glass-Steagall regulation, which separates retail banks that provide funding for the real economy from speculative investment banks, is the indispensable condition for such a pursuit.

Following the success of Chinese leader Deng Xiaoping's "reform and opening up" agenda and the advent of a "socialist market economy", Chinese banks at first were using any means at their disposal to raise money and speculate, including the use of savings deposits. Thus, as reported by Yi Gang in the book cited above, it was necessary to legislate a firewall between commercial and investment banking activity to prevent this. In 1993 China introduced its equivalent of Glass-Steagall banking separation to dry up speculation and instead focus investment into production and development. China also began to develop its state-directed financial system, to make credit available for this purpose.

When the People's Bank of China was given authority over commercial banks, and announced in June 1993 that it would "separate commercial banks from their affiliated trust and investment firms", three policy banks were created to oversee government-directed spending and the development of the nation. China is still continually revising and strengthening its financial regulatory framework to protect the banking functions crucial to economic growth, in sharp contrast to the West.

Meanwhile, in the USA the repeal of Glass-Steagall resulted in 1999 from a long process, led by the City of London and its Wall Street bastion. The official repeal of U.S. banking separation had been preceded by similar action in Europe starting at the end of 1989; that, in turn, had been preceded by the City of London's Big Bang deregulation in 1986, aimed at creating a new global financial superstructure with London as the heart.

After the Berlin Wall fell in 1989, British Prime Minister Margaret Thatcher, working with French President François Mitterrand, moved to prevent the emergence of a strong, sovereign Germany, and to sabotage reconstruction of national economies in the East. Sovereign banking regulations were dismantled in favour of moves towards a European Banking Union. Glass-Steagall-type laws were eradicated in many European nations. On 15 December 1989, a month after the fall of the Berlin Wall, the European Commission issued Directive CE 646/89, which allowed any credit institution to engage in the entire spectrum of risky speculation, including derivatives trading. It also opened up the banking sectors of all European nations to City of London domination and control. Just prior to this directive, on 30 November 1989, Deutsche Bank chairman Alfred Herrhausen was assassinated. The most influential figure in corporate Germany, Herrhausen had been pushing for the industrial development of Germany, foreseeing "great economic possibilities" for Eastern Europe. Following Herrhausen's death, his friend German Chancellor Helmut Kohl capitulated to the demands for the destruction of national sovereignty, ushered in by immediate moves to a monetary union.

It was the City of London that had assailed sovereignty since the time of World War I, including through the movement to create a European Union, and in the post-war period had worked assiduously to subvert Bretton Woods-era financial controls, including the Glass-Steagall banking separation in effect in many countries. Prior to the Big Bang in London's financial markets, Glass-Steagall-type banking separation was the prevailing reality even for British banks. Rather than a formal rule, separation between commercial and "merchant" banks existed by convention. In an economy still mostly oriented to real economic activity, a natural divide had formed whereby commercial banks operated much as utilities do, providing a vital service for the conduct of business, and merchant banks conducted investment activity, but did not take deposits or offer basic consumer services.

Thatcher's chancellor of the Exchequer at the time of the Big Bang, Lord Nigel Lawson, told BBC radio in 2010 that London had been determined to remain the global centre of finance as the world moved to a global marketplace. The City of London, therefore, "could no longer be based ... on the capital put in by a certain number of wealthy individuals. It had to be much bigger than that—which meant having corporate capital in, and allowing overseas capital in".

This spelt the end of the traditional separation of bank activity. Lawson, who today advocates the reintroduction of Glass-Steagall, explains that bankers wanted to "get their hands on the deposits", so as to leverage them in the drive for bigger financial profits from high-risk activity. Ridding the world of FDR's Glass-Steagall protection thus set up the ever increasing divide between rich and poor, the big corporation and the individual citizen, until China took up the baton.

Part 4

Glass-Steagall and National Bank Legislation

Franklin Roosevelt's 1933 *Glass-Steagall Act* (excerpts)

An Act

To provide for the safer and more effective use of the assets of banks, to regulate interbank control, to prevent the undue diversion of funds into speculative operations, and for other purposes. …

[**Sec. 3 (a)**] Each Federal reserve bank shall keep itself informed of the general character and amount of the loans and investments of its member banks with a view to ascertaining whether undue use is being made of bank credit for the speculative carrying of or trading in securities, real estate, or commodities, or for any other purpose inconsistent with the maintenance of sound credit conditions; and, in determining whether to grant or refuse advances, rediscounts or other credit accommodations, the Federal reserve bank shall give consideration to such information. The chairman of the Federal reserve bank shall report to the Federal Reserve Board any such undue use of bank credit by any member bank, together with his recommendation.

U.S. President
Franklin Delano Roosevelt

[**Sec. 7**] …the Federal Reserve Board shall have power to fix from time to time for each Federal reserve district the percentage of individual bank capital and surplus which may be represented by loans secured by stock or bond collateral made by member banks within such district … it shall be the duty of the Board to establish such percentages with a view to preventing the undue use of bank loans for the speculative carrying of securities. …

[**Sec. 11 (a)**] No member bank shall act as the medium or agent of any non-banking corporation, partnership, association, business trust, or individual in making loans on the security of stocks, bonds, and other investment securities to brokers or dealers in stocks, bonds, and other investment securities. …

[**Sec. 20**] After one year from the date of the enactment of this Act, no member bank shall be affiliated in any manner described in section 2 (b) hereof with any corporation, association, business trust, or other similar organization engaged principally in the issue, flotation, underwriting, public sale, or distribution at wholesale or retail or through syndicate participation of stocks, bonds, debentures, notes, or other securities. …

[**Sec. 21 (a)**] After the expiration of one year after the date of enactment of this Act it shall be unlawful—(1) For any person, firm, corporation, association, business trust, or other similar organization, engaged in the business of issuing, underwriting, selling, or distributing, at wholesale or retail, or through syndicate participation, stocks, bonds, debentures, notes, or other securities, to engage at the same time to any extent whatever in the business of receiving deposits subject to check or to repayment upon presentation of a passbook, certificate of deposit, or other evidence of debt, or upon request of the depositor…

[**Sec. 32**] From and after January 1, 1934, no officer or director of any member bank shall be an officer, director, or manager of any corporation, partnership, or unincorporated association engaged primarily in the business of purchasing, selling, or negotiating securities, and no member bank shall perform the functions of a correspondent bank on behalf of any such individual, partnership, corporation, or unincorporated association and no such individual, partnership, corporation, or unincorporated association shall perform the functions of a correspondent for any member bank or hold on deposit any funds on behalf of any member bank, unless in any such case there is a permit therefor issued by the Federal Reserve Board; and the Board is authorized to issue such permit if in its judgment it is not incompatible with the public interest, and to revoke any such permit whenever it finds after reasonable notice and opportunity to be heard, that the public interest requires such revocation.

The 21st Century Glass-Steagall Act of 2017

Excerpted here is a bill to restore Glass-Steagall banking separation, introduced in the United States Senate in 2017 by Sen. Elizabeth Warren (Democrat of Massachusetts) and co-sponsors from both parties: Sen. Maria Cantwell (Democrat of Washington), Sen. John McCain (Republican of Arizona), and Sen. Angus King (Independent of Maine). The complete text of the bill is available at https://www.congress.gov/bill/115th-congress/senate-bill/881/text. Many of the bill's provisions have the form of amendments to existing legislation, including the Financial Services Modernisation Act of 1999 (Gramm-Leach-Bliley), which repealed the Banking Act of 1933 (Glass-Steagall banking separation provisions) and elements of the Bank Holding Act of 1956.

115TH CONGRESS [OF THE UNITED STATES OF AMERICA] 1ST SESSION

S. 881

IN THE SENATE OF THE UNITED STATES

APRIL 6 (legislative day, APRIL 4), 2017

Ms. Warren (for herself, Mr. McCain, Ms. Cantwell, and Mr. King) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To reduce risks to the financial system by limiting banks' ability to engage in certain risky activities and limiting conflicts of interest, to reinstate certain Glass-Steagall Act protections that were repealed by the Gramm-Leach-Bliley Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Short title.
This Act may be cited as the "21st Century Glass-Steagall Act of 2017".

SEC. 2. FINDINGS AND PURPOSE.
(a) Findings.—Congress finds that—

(1) in response to a financial crisis and the ensuing Great Depression, Congress enacted the Banking Act of 1933, known as the "Glass-Steagall Act", to prohibit commercial banks from offering investment banking and insurance services;

(2) a series of deregulatory decisions by the Board of Governors of the Federal Reserve System and the Office of the Comptroller of the Currency, in addition to decisions by Federal courts, permitted commercial banks to engage in an increasing number of risky financial activities that had previously been restricted under the Glass-Steagall Act, and also vastly expanded the meaning of the "business of banking" and "closely related activities" in banking law;

(3) in 1999, Congress enacted the "Gramm-Leach-Bliley Act", which repealed the Glass-Steagall Act separation between commercial and investment banking and allowed for complex cross-subsidies and interconnections between commercial and investment banks;

(4) former Kansas City Federal Reserve President Thomas Hoenig observed that "with the elimination of Glass-Steagall, the largest institutions with the greatest ability to leverage their balance sheets increased their risk profile by getting into trading, market making, and hedge fund activities, adding ever greater complexity to their balance sheets.";

(5) the Financial Crisis Inquiry Report issued by the Financial Crisis Inquiry Commission concluded that, in the years between the passage of the Gramm-Leach Bliley Act and the global financial crisis, "regulation and supervision of traditional banking had been weakened significantly, allowing commercial banks and thrifts to operate with fewer constraints and to engage in a wider range of financial activities, including activities in the shadow banking system.". The Commission also concluded that "[t]his deregulation made the financial system especially vulnerable to the financial crisis and exacerbated its effects.";

(6) a report by the Financial Stability Oversight Council pursuant to section 123 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5333) states that increased complexity and diversity of financial activities at financial institutions may "shift institutions towards more risk-taking, increase the level of interconnectedness among financial firms, and therefore may increase systemic default risk. These potential costs may be exacerbated in cases where the market perceives diverse and complex financial institutions as 'too big to fail,' which may lead to excessive risk taking and concerns about moral hazard.";

(7) the Senate Permanent Subcommittee on Investigations report, "Wall Street and the Financial Crisis: Anatomy of a Financial Collapse", states that repeal of the Glass-Steagall Act "made it more difficult for regulators to distinguish between activities intended to benefit customers versus the financial institution itself. The expanded set of financial services investment banks were allowed to offer also contributed to the multiple and significant conflicts of interest that arose between

some investment banks and their clients during the financial crisis.";

(8) the Senate Permanent Subcommittee on Investigations report, "JPMorgan Chase Whale Trades: A Case History of Derivatives Risks and Abuses", describes how traders at JPMorgan Chase made risky bets using excess deposits that were partly insured by the Federal Government;

(9) in Europe, the Vickers Independent Commission on Banking (for the United Kingdom) and the Liikanen Report (for the Euro area) have both found that there is no inherent reason to bundle "retail banking" with "investment banking" or other forms of relatively high risk securities trading, and European countries are set on a path of separating various activities that are currently bundled together in the business of banking;

(10) private sector actors prefer having access to underpriced public sector insurance, whether explicit (for insured deposits) or implicit (for "too big to fail" financial institutions), to subsidize dangerous levels of risk-taking, which, from a broader social perspective, is not an advantageous arrangement; and

(11) the financial crisis, and the regulatory response to the crisis, has led to more mergers between financial institutions, creating greater financial sector consolidation and increasing the dominance of a few large, complex financial institutions that are generally considered to be "too big to fail", and therefore are perceived by the markets as having an implicit guarantee from the Federal Government to bail them out in the event of their failure.

(b) Purposes.—The purposes of this Act are—

(1) to reduce risks to the financial system by limiting the ability of banks to engage in activities other than socially valuable core banking activities;

(2) to protect taxpayers and reduce moral hazard by removing explicit and implicit government guarantees for high-risk activities outside of the core business of banking; and

(3) to eliminate any conflict of interest that arises from banks engaging in activities from which their profits are earned at the expense of their customers or clients.

SEC. 4. SAFE AND SOUND BANKING.

(a) Insured Depository Institutions.—Section 18(s) of the Federal Deposit Insurance Act (12 U.S.C. 1828(s)) is amended by adding at the end the following:

(6) Limitations on banking affiliations.—

"(A) Prohibition on affiliations with nondepository entities.—An insured depository institution may not—

"(i) be or become an affiliate of any insurance company, securities entity, or swaps entity;

"(ii) be in common ownership or control with any insurance company, securities entity, or swaps entity; or

"(iii) engage in any activity that would cause the insured depository institution to qualify as an insurance company, securities entity, or swaps entity.

"(B) Individuals eligible to serve on boards of depository institutions.—

"(i) In general.—An individual who is an officer, director, partner, or employee of any securities entity, insurance company, or swaps entity may not serve at the same time as an officer, director, employee, or other institution-affiliated party of any insured depository institution.

<…>

"(C) Termination of existing affiliations and activities.—

"(i) Orderly termination of existing affiliations and activities.—Any affiliation, common ownership or control, or activity of an insured depository institution with any securities entity, insurance company, swaps entity, or any other person, as of the date of enactment of the 21st Century Glass-Steagall Act of 2017, which is prohibited under subparagraph (A) shall be terminated as soon as is practicable, and in no event later than the end of the 5-year period beginning on that date of enactment.

"(ii) Early termination.—The appropriate Federal banking agency, at any time after opportunity for hearing, may order termination of an affiliation, common ownership or control, or activity prohibited by clause (i) before the end of the 5-year period described in clause (i), if the agency determines that such action—

"(I) is necessary to prevent undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices; and

"(II) is in the public interest.

<…>

"(D) Definitions.—For purposes of this paragraph, the following definitions shall apply:

<…>

"(iii) Securities entity.—The term 'securities entity'—

"(I) includes any entity engaged in—

"(aa) the issue, flotation, underwriting, public sale, or distribution of stocks, bonds, debentures, notes, or other securities;

"(bb) market making;

"(cc) activities of a broker or dealer, as those terms are defined in

section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a));

"(dd) activities of a futures commission merchant;

"(ee) activities of an investment adviser or investment company, as those terms are defined in section 202(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)) and section 3(a)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(a)(1)), respectively; or

"(ff) hedge fund or private equity investments in the securities of either privately or publicly held companies; and

"(II) does not include a bank that, pursuant to its authorized trust and fiduciary activities—

"(aa) purchases and sells investments for the account of its customers; or

"(bb) provides financial or investment advice to its customers.

"(iv) Swaps entity.—The term 'swaps entity' means any swap dealer, security-based swap dealer, major swap participant, or major security-based swap participant..."

<…>

(c) Permitted Activities of National Banks.—The paragraph designated as "Seventh" of section 24 of the Revised Statutes (12 U.S.C. 24) is amended to read as follows:

"Seventh. (A) To exercise by its board of directors or duly authorized officers or agents, subject to law, all such powers as are necessary to carry on the business of banking.

"(B) As used in this paragraph, the term 'business of banking' shall be limited to the following core banking services:

"(i) Receiving deposits.—A national banking association may engage in the business of receiving deposits.

"(ii) Extensions of credit.—A national banking association may—

"(I) extend credit to individuals, businesses, not for profit organizations, and other entities;

"(II) discount and negotiate promissory notes, drafts, bills of exchange, and other evidences of debt; and

"(III) loan money on personal security.

"(iii) Payment systems.—A national banking association may participate in payment systems, defined as instruments, banking procedures, and interbank funds transfer systems that ensure the circulation of money.

"(iv) Coin and bullion.—A national banking association may buy, sell, and exchange coin and bullion.

"(v) Investments in securities.—

"(I) In general.—A national banking association may invest in investment securities, defined as marketable obligations evidencing indebtedness of any person, copartnership, association, or corporation in the form of bonds, notes, or debentures (commonly known as 'investment securities'), obligations of the Federal Government, or any State or subdivision thereof, and includes the definition of 'investment securities', as may be jointly prescribed by regulation by—

"(aa) the Comptroller of the Currency;

"(bb) the Federal Deposit Insurance Corporation; and

"(cc) the Board of Governors of the Federal Reserve System.

"(II) Limitations.—The business of dealing in securities and stock by the association shall be limited to—

"(aa) purchasing and selling such securities and stock without recourse, solely upon the order, and for the account of, customers, and in no case for its own account, and the association shall not underwrite any issue of securities or stock; and

"(bb) purchasing for its own account investment securities under such limitations and restrictions as the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Board of Governors of the Federal Reserve System may jointly prescribe, by regulation.

"(III) Prohibition on amount of investment. —In no event shall the total amount of the investment securities of any single obligor or maker, held by the association for its own account, exceed 10 percent of its capital stock actually paid in and unimpaired and 10 percent of its unimpaired surplus fund, except that such limitation shall not require any association to dispose of any securities lawfully held by it on August 23, 1935.

"(C) Prohibition against transactions involving

structured or synthetic products.—A national banking association may not—

"(i) invest in a structured or synthetic product, a financial instrument in which a return is calculated based on the value of, or by reference to the performance of, a security, commodity, swap, other asset, or an entity, or any index or basket composed of securities, commodities, swaps, other assets, or entities, other than customarily determined interest rates; or

"(ii) otherwise engage in the business of receiving deposits or extending credit for transactions involving structured or synthetic products.".

<…>

(e) Closely Related Activities.—Section 4(c) of 9 the Bank Holding Company Act of 1956 (12 U.S.C. 10 1843(c)) [[a clause listing types of companies "closely related to banking" and therefore allowed to be owned by a bank holding company -ed.]] is amended—

(1) in paragraph (8), by striking "had been determined [… to be so closely related to banking as to be a proper incident thereto]" … and inserting the following: "are so closely related to banking so as to be a proper incident thereto, as provided under this paragraph or any rule or regulation issued by the Board under this paragraph, provided that for purposes of this paragraph, *closely related shall not be considered to include* [emphasis added]—

"(A) serving as an investment adviser (as defined in section 2(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a))) to an investment company registered under that Act, including sponsoring, organizing, and managing a closed-end investment company;

"(B) agency transactional services for customer investments, except that this subparagraph may not be construed as prohibiting purchases and sales of investments for the account of customers conducted by a bank (or subsidiary thereof) pursuant to the bank's trust and fiduciary powers;

<…>

(g) Anti-Evasion.—

<…>

(2) Termination.—

(A) In general.—Notwithstanding any other provision of law, if a Federal agency has reasonable cause to believe that an insured depository institution, securities entity, swaps entity, insurance company, bank holding company, or other entity over which that Federal agency has regulatory authority has made an investment or engaged in an activity in a manner that functions as an evasion of the prohibitions described in paragraph (1) (including through an abuse of any permitted activity) or otherwise violates such prohibitions, the Federal agency shall—

(i) order, after due notice and opportunity for hearing, the entity to terminate the activity and, as relevant, dispose of the investment;

(ii) order, after the procedures described in clause (i), the entity to pay a penalty equal to 10 percent of the entity's net profits, averaged over the previous 3 years, into the Treasury of the United States; and

(iii) initiate proceedings described in section 8(e) of the Federal Deposit insurance Act (12 U.S.C. 1818(e)) for individuals involved in evading the prohibitions described in paragraph (1).

(B) Construction.—Nothing in this paragraph shall be construed to limit the inherent authority of any Federal agency or State regulatory authority to further restrict any investments or activities under otherwise applicable provisions of law.

<…>

SEC. 5. REPEAL OF GRAMM-LEACH-BLILEY ACT PROVISIONS.

(a) Termination of Financial Holding Company Designation—

<…>

(2) Transition.—

(A) Orderly termination of existing affiliation.—In the case of a bank holding company which, pursuant to the amendments made by paragraph (1), is no longer authorized to control or be affiliated with any entity that was permissible for a financial holding company on the day before the date of enactment of this Act, any affiliation, ownership or control, or activity by the bank holding company that is not permitted for a bank holding company shall be terminated as soon as is practicable, and in no event later than the end of the 5-year period beginning on the date of enactment of this Act.

<…>

(b) Financial Subsidiaries of National Banks Disallowed.—

<…>

(2) Transition.—

(A) Orderly termination of existing affiliation.—In the case of a national bank which, pursuant to the amendment made by paragraph (1), is no longer authorized to control or be affiliated with a financial subsidiary as of the date of enactment of this Act, such affiliation, ownership or control, or activity shall be terminated as soon as is practicable, and in no event later than the end of the 5-year period beginning on the date of enactment of this Act.

Banking System Reform (Separation of Banks) Bill 2018 (CEC of Australia draft)

Following the underhanded passage of the Turnbull Government's crisis-resolution powers bill ***(pages 41-52)*** *on 14 February 2018, with just seven Senators present, the Citizens Electoral Council moved quickly to put up alternative legislation that will protect the public's savings and the national financial system. Drafted in consultation with legal and banking experts, the CEC bill includes measures to separate deposit-taking banks from all other financial activities. The legislation proper appears on* ***page 79****.*

Explanatory Memorandum

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Need for This Bill

It is obvious that Australia's Big Four banks and Macquarie are devoted solely to their own usurious profits at the expense of the population as a whole. We must therefore break up these "vertically integrated", self-centred and crime-ridden behemoths and return to the sort of tightly regulated banking system which existed under our original Commonwealth Bank, which was dedicated to the Common Good. Towards that end, the Citizens Electoral Council has drafted the Banking System Reform (Separation of Banks) Bill 2018, an explanation of which follows.

General Outline

Given the onrushing global financial crisis, this present legislation is proposed for *immediate implementation* within the current Australian banking structures and institutions. It mandates the separation of normal retail commercial banking activities involving the holding of deposits, from wholesale and investment banking, which are rife with risky activities; and, whilst guaranteeing deposits in commercial banks, removes explicit and implicit government guarantees for any such activities outside of the core business of normal commercial banking. It also proposes to provide strict accountability and parliamentary oversight of the activities of the Australian Prudential Regulation Authority (APRA) as the banking regulator, which since its establishment in 1998 has not only overseen, but actually fostered the growth of Australia's present, speculation-centred, crime-ridden financial system.

Australia's present financial system, particularly those aspects introduced during the waves of deregulation that followed from the 1981 Campbell Report, which allowed its present concentration in the "Big Four" too-big-to-fail (TBTF) banks plus Macquarie and the mixing of normal commercial banking with speculation-ridden investment banking and other financial services within the same institutions, is recognised to be a disaster which fosters financial speculation at the expense of the real, physical economy and the majority of the population. Moreover, the City of London/Wall Street-centred global financial system, of which Australia's banks are an integral part, itself now faces a new collapse.

Background

The Australian and international media have featured repeated warnings from present and former officials of the Bank for International Settlements, the International Monetary Fund, the Organisation for Economic Co-operation and Development, and the U.S. Federal Reserve System, as well as former leading bankers and other prominent commentators, that the world is headed towards a far greater financial crash than that of 2007-2008.

This inevitable prospect has been caused by the waves of "free market reforms" enacted since the breakup of the fixed-exchange-rate Bretton Woods system in 1971. These reforms include privatisation, deregulation, manipulations of fluctuations in currency exchange rates, and the creation of over US$1 quadrillion in speculative instruments known as derivatives, such as the mortgage-backed securities that provoked the 2007-2008 crash and are once again soaring in number.

This new global bubble in the trans-Atlantic system, including Australia, is not simply a bubble in one part of "the market", such as mortgages. Rather, the relentless quantitative easing by central banks, totalling an estimated minimum of US$12 trillion since 2008, has created an "everything bubble", including car loans, student loans, corporate loans, the U.S. stock market

which has exceeded US$30 trillion, the bitcoin bubble, and others.

This post-2008 system is centred upon a handful of TBTF banks, typified by those in the City of London, on Wall Street, and in the European Union, and Australia's Big Four plus Macquarie, all of which have looted the population in favour of speculative profits.

The creation of this TBTF system was enabled by the 1986 Big Bang deregulation of the City of London and the repeal of the U.S. *Glass-Steagall Act* in 1999.

From the time Glass-Steagall legislation was passed in 1933 until it was repealed in 1999, there had been no such systemic crisis in the U.S. banking system.

Australia has never had Glass-Steagall-style banking separation, but the domestic banking system was not always exposed to the level of risk it is today, because until the 1980s a system of regulatory controls effectively implemented separation.

Australia's government-owned Commonwealth Bank was intended by its promoter King O'Malley to be a national bank, but, instead, a watered-down version was legislated in 1911. Nevertheless, it exercised a degree of control over the banking system, and in 1911-1959 the Commonwealth Bank strengthened the banking system, stopping runs on private banks: no Australian banks failed during the Great Depression, compared with the more than 4,000 American banks that permanently closed their doors between 1929 and the 1933 passage of the *Glass-Steagall Act*. Prior to the Commonwealth Bank, banking in Australia had been very volatile, 20 of 22 Australian banks having failed in the 1892 economic crisis.

Labor leaders John Curtin and Ben Chifley gave the Commonwealth Bank even greater powers over the private banks during and after WWII. The Commonwealth Bank regulated what the private banks could charge for loans and pay for deposits, and the extent, and nature, of bank lending, but this regulation did not prevent private banks from remaining profitable. Bank regulation was based on the principle of the common good: the financial system must serve the needs of the people. To do that, the banking system had to be structured to ensure that credit was available for the government to build infrastructure and invest in national economic development, and for essential primary and secondary industries, the productivity of which generated the tangible wealth that underpinned the living standard of the population. Banking controls minimised the ability of the private banks to speculate, and encouraged investments in the production of physical infrastructure, goods and essential services.

Chifley's successor, Liberal Party Prime Minister Robert Menzies, stripped the Commonwealth Bank of its regulatory powers over the private banks in 1959, and vested those powers in a new central bank, the Reserve Bank of Australia—the bankers' bank.

The global financial system changed dramatically on 15 August 1971, when U.S. President Richard Nixon ended the Bretton Woods system of fixing the U.S. dollar to gold. This unleashed a global push for financial deregulation, masterminded by the powerful banking houses of the City of London. The post-1971 system constituted a new form of British imperialism—not territorial as of old, but as an "informal financial empire", in the words of its own proponents.

In 1979 the Liberal Party established the Financial System Inquiry headed by Sir Keith Campbell. The resulting 1981 Campbell Report demanded the wholesale elimination of Australia's regulated financial system, including the abolition of government controls over bank lending, by which the government had instructed the banks to give preference to farmers, small businesses, and home-buyers; the sale of all government-owned financial institutions that existed to provide cheaper finance to farms and small businesses, such as the Australian Industry Development Corporation, the Primary Industry Bank of Australia, the Commonwealth Development Bank, and the Housing Loans Insurance Corporation; the abolition of the "30/20 Rule" and other ratios that had obliged the savings banks, trading banks, life offices and superannuation funds to invest a fixed percentage of their assets in government bonds, thus providing security for the financial institution and ensuring the government could borrow readily; the removal of government controls over all interest rates charged by banks; the abolition of government controls over the amount of lending by banks; the lifting of all controls over capital flows in and out of Australia and the floating of the dollar; and the admission of foreign banks into Australia. Liberal Prime Minister Malcolm Fraser opposed many of these demands, so his government implemented only the recommended entry of foreign banks into Australia.

But the subsequent Hawke-Keating Labor Government initiated the 1983-1984 Vic Martin Inquiry, which simply rubber-stamped the demands of the Campbell Report. Treasurer Paul Keating had already condemned the senior executives of Australia's banks as smug fat cats, protected by regulation from real competition, and stripped away Australia's banking regulations beginning with the December 1983 float of the Australian dollar.

Liberal Party Treasurer Peter Costello took the process still further by initiating the 1996 Wallis Inquiry, which demanded the removal of restrictions on mergers between the banks and big life insurance offices; stripped the Reserve Bank of its remaining pow-

ers to regulate the banks; and established a new, "independent" banking regulator—APRA. Costello publicly confirmed for the first time that there was no formal guarantee for bank deposits in Australia.

From these two periods of banking reform has emerged Australia's highly concentrated, TBTF banking system, with its almost $38 trillion exposure to toxic derivatives and hundreds of billions of dollars of short-term debt. But even the architects of deregulation are well aware that they have exposed the Australian public to enormous risk. Interviewed in the 2008 book *Unfinished Business: Paul Keating's Interrupted Revolution*, Keating admitted to author David Love a "minor" detail kept from the public in the 1980s—that at least two of Australia's Big Four banks would have collapsed at that time, had the government not propped them up because they were already "too big to fail". Reflecting the results effected by the Campbell Report, Keating recalled, "The old domestic banks went like charging bulls into credit expansion from 1985 on…. Eventually, they had us in a position where we dared not check them lest they failed. Westpac and the ANZ virtually did fail: the government and the Reserve Bank had to hold them together until they got back on their feet."

The speculation became even worse following the 1998 establishment of APRA, which supervised the creation of today's mortgage bubble—generally acknowledged as the first or second worst in the world—by rigging prudential regulation to favour speculation in mortgages, much of which was financed by overseas borrowing. Thus, in 2008 the Rudd Government had to guarantee the banks' huge foreign borrowings as well as their deposits; without these guarantees, they would have collapsed. All the while, the government was assuring the public that the banks were "sound". Under the benevolent eye of APRA—which is funded by the banks themselves and, while formally responsible to Parliament, takes its direction from the Bank for International Settlements in Switzerland, which insists the government must not "interfere" with APRA's operations—the Big Four's holdings of mortgage-centred, ultra-risky derivatives have soared from $14 trillion in 2008 to over $37 trillion today. Australia's TBTF banks now hold 60 per cent of their assets in mortgages, compared with 30 per cent in the USA and just over 20 per cent in London. This property bubble has been financed by massive foreign borrowing. And, contrary to the endlessly repeated mantra that Australia has the "safest financial system in the world", its mortgage bubble is a mortal threat not only to Australia, *but to the entire City of London/Wall Street-centred Western financial system*, a reality reported in the 5 February 2018 *Australian Financial Review* article, "Australian banks may pose global systemic threat".

Thanks to this relentless deregulatory process, initiated with the 1981 Campbell Report and supervised since 1998 by APRA, Australia's "financial sector" now constitutes an astounding 9 per cent of Australia's economy, as opposed to the City of London's "mere" 7 per cent of the UK economy and Wall Street's 6 per cent of the U.S. economy. It has been created at the expense of our real physical economy, such as agriculture and manufacturing, which have been devastated, with family farms almost obliterated and our manufacturing sector at only 6 per cent of GDP—the lowest level in the Western world. Indeed, *this is precisely what Paul Keating intended* when he proclaimed in 1985 that Australia should be the "Wall Street of the South" and, in terms of industry, concentrate on its "long suit" of exporting primary products; in other words, that the proud Australia of the post-war years, with its vibrant new factories and family farm-centred agricultural sector, should devolve into a typical "Third World" economy under foreign imperialist rule.

This deregulation and privatisation process has enriched speculators and the TBTF banks at the expense of the general population, which suffers soaring prices for food, housing, energy and other basic necessities. Moreover, Australia's TBTF banks have been repeatedly caught in criminal activity such as drug money laundering, terror financing, interest rate rigging, stealing from their depositors, and other crimes, committed during the period of APRA's oversight of them since 1998. In short, Australian governments no longer control and direct the financial system, but now operate at the behest of the financial system.

Past periods of profound crisis, including the bank collapses of the 1890s, the Great Depression of the 1930s, and the need to build our economy to fight World War II, forced the government to act to rein in private finance on behalf of the public good. Thus, the Conservative-led Banking Royal Commission of 1936 found that, contrary to the private bankers' control of the financial system in the 1920s and 1930s, "*The Federal Parliament is ultimately responsible for monetary policy and the Government of the day is the executive of the Parliament.*" Or, in the words of PM John Curtin, who with Treasurer Ben Chifley constructed the highly regulated financial system that enabled Australia to industrialise overnight during WWII and make an invaluable contribution to winning World War II in the Pacific, "If the Government of the Commonwealth deliberately excludes itself from all participation in the making or changing of monetary policy"—as happened in the 1920s and 1930s, and again today under an "independent" central bank and APRA—"it cannot govern except in a secondary degree."

Summary of Draft Legislation

The legislation:

1. Prohibits banks from any affiliation with an entity that is not a bank. (Sections 7, 8, 9)
2. Prohibits any entity that is not a bank to engage in the business of receiving deposits. (Section 10(1))
3. Prohibits banks from investing in structured or synthetic products and products such as derivatives and speculative ventures. (Section 10(4))
4. Limits the business of banking to retail banking and associated loans and activities. (Section 11)
5. Brings the Australian Prudential Regulation Authority ("APRA"), as the licensing and regulatory Authority, and its prudential standards and actions and decisions generally, under the oversight of Parliament. (Section 14)
6. Limits the Financial Claims Scheme to deposits with banks whose activities do not include any prohibited activities. (Section 13)

Effect of Draft Legislation

The effect of the legislation will be:

1. To re-establish public confidence in the banking system;
2. To reduce risks to the Australian financial system by limiting the ability of banks to engage in activities other than socially valuable core banking activities;
3. To limit conflicts of interest that arise from banks engaging in activities from which their profits are earned at the expense of their customers and the national interest;
4. To remove explicit and implicit government guarantees for high-risk activities outside of the core business of banking;
5. To regulate Australian banks and any foreign bank operating within Australia;
6. To provide parliamentary oversight of the activities of APRA as the banking regulator;
7. To separate retail commercial banking activities involving the holding of deposits, from wholesale and investment banking involving risky activities.

Further Financial System Reforms

Such urgently required separation is merely the first step. The full reform of Australia's banking system requires a more comprehensive package of legislation that overturns the current monetarist philosophies and policies and returns Australia to a public credit-based system implemented through a system of national banking. Such a system must be anchored upon the re-establishment of a new, government-owned and directed national bank to regulate Australia's national credit, to provide such credit for urgently needed infrastructure projects, and to drive a renaissance of Australia's agro-industrial, physical economy. Legislation for this new national bank is to be modelled principally upon our original Commonwealth Bank as it functioned under its founding director Sir Denison Miller from 1912 to 1920 (before private banking interests seized control of it), and the Australian banking system as it was regulated under Prime Minister John Curtin and Treasurer Ben Chifley and functioned so magnificently during World War II and even up until 1959 when the Reserve Bank was established. The new Commonwealth National Credit Bank would replace the Reserve Bank, and the new bank's Reserve Division would be mandated to licence and regulate Australia's private banks and foreign banks operating in Australia, as did the original Commonwealth Bank, thereby replacing APRA, which would be abolished. In the meantime, APRA must be placed under the strict supervision of Parliament, which is, in turn, responsible to the population as a whole.

The creation of a true national bank would restore to the Australian Parliament the Constitutional power to regulate Australia's economy. It will act in Australia's national interest, through ensuring an orderly flow of credit and currency to public infrastructure and utilities, and to private enterprise engaged in the production and transportation of tangible economic wealth, including manufacturing, agriculture, construction, and mining. Successive governments have been deficient in this regard by abrogating this power, relinquishing it to private banking interests operating in a regulatory framework run by APRA and ultimately directed by APRA's masters in the Bank of England and the BoE-established, supranational Bank for International Settlements in Basel, Switzerland. Thus, foreign and Australian private banking interests have exercised arbitrary judgments on monetary policies, in violation of Australia's national economic interest.

The new national bank would finance nationwide infrastructure projects in water, high-speed rail, and energy among other vital aspects of the economy, to act as science-drivers of real economic development, and to increase Australia's physical-economic productivity and therefore the standard of living of all Australians.

Further Legislation Required

Separate legislation will be required for the regulation of credit unions, building societies, insurance companies and superannuation fund managers, to either supplement, qualify or replace the legislation at the state level that currently governs such institutions and persons.

The Legislation

No __ of 2018

An Act to re-establish public confidence in the banking system; to reduce risks to the Australian financial system by limiting the ability of banks to engage in activities other than socially valuable core banking activities; to limit conflicts of interest that arise from banks engaging in activities from which their profits are earned at the expense of their customers and the national interest; to remove explicit and implicit government guarantees for high-risk activities outside of the core business of banking; to regulate Australian Banks; to provide parliamentary oversight of the activities of the Australian Prudential Regulation Authority (APRA) as the banking regulator; to separate retail commercial banking activities involving the holding of deposits, from wholesale and investment banking involving risky activities; and for other purposes.

Contents

The Parliament of Australia enacts:

1. Short title

This Act may be cited as the *Banking System Reform Act 2018.*

2. Outline of the purposes of the Act

The purposes of this Act are:

(1) to reduce risks to the financial system by limiting the ability of banks to engage in activities other than socially valuable core banking activities;

(2) to protect taxpayers and reduce moral hazard by removing explicit and implicit government guarantees for high-risk activities outside of the core business of banking;

(3) to eliminate any conflict of interest that arises from banks engaging in activities from which their profits are earned at the expense of their customers or clients;

(4) to provide for the safer and more effective use of the assets of banks, to regulate interbank control, and to prevent the undue diversion of funds into speculative operations;

(5) to re-enforce the Constitutional power of the Commonwealth Parliament to regulate banking and other aspects of the Australian economy, and to promote the exercise of that power in Australia's national interest, including through ensuring an orderly flow of credit and currency to public infrastructure and utilities and to private enterprise engaged in the production and transportation of tangible economic wealth, including manufacturing, agriculture, construction, and mining, successive governments having been deficient in action in the national interest by abrogating such power and relinquishing it to private banking interests, which have been exercising arbitrary judgments on monetary policies in violation of Australia's national economic interest;

(6) to require that the Australian government re-regulate Australia's national financial system by the separation of sound commercial banking, which benefits the average Australian, from the speculative merchant banking activities which have grown like a cancer under financial deregulation, both in this country and worldwide and which have largely caused the present, ever deepening global financial crisis;

(7) to facilitate this re-regulation of Australia's financial system by mandating strict parliamentary control over APRA, including fines and/or jail terms for APRA officials attempting to evade such supervision.

3. Commencement

This Act commences on _____ 2018.

4. Definitions

(1) In this Act, unless the contrary intention appears:

"APRA" is short for "Australian Prudential Regulation Authority" created by the *Australian Prudential Regulation Authority Act 1998*;

"bank" means a body corporate carrying on banking business and being an authorised deposit-taking institution within the meaning of the *Banking Act 1959* as amended and in respect of which an authority under subsection 9(3) of that Act is in force;

"banking business" means:

(i) business that consists of banking within the meaning of paragraph 51(xiii) of the Constitution; or

(ii) business that is carried on by a corporation to which paragraph 51(xx) of the Constitution applies and that consists, to any extent, of both taking money on deposit (otherwise than as part payment for identified goods or services) and making advances of money or credit;

"bank holding company" means any body corporate, whether or not operating as a bank, which owns a controlling interest in, or controls in any manner the election of

directors or trustees of, or directly or indirectly exercises a controlling influence over the management or policies of any bank.

"business of receiving deposits" means the establishment and maintenance of a deposit or account on which the depositor or account holder is permitted to make withdrawals by negotiable or transferable instrument, payment orders of withdrawal, telephone transfers, or other similar items for the purpose of making payments or transfers to third persons or others. Such term includes demand deposits, negotiable order of withdrawal accounts, and savings deposits subject to automatic transfers;

"Committee" means the Parliamentary Joint Committee on Prudential Regulation created pursuant to clause 14(1);

"investment securities" means marketable obligations evidencing indebtedness of any person, co-partnership, association, or corporation in the form of bonds, notes, or debentures, and obligations of the Commonwealth Government, or of any State or subdivision of the Commonwealth, and does not include managed investment schemes or any of the instruments described in Section 10(3)(i) hereof;

"managed investment scheme" means a managed investment scheme within the meaning of the *Corporations Act 2001* as amended, in which members make contributions in return for an interest in the benefits the scheme produces, in which contributions are pooled to produce the benefits, and members do not have day-to-day control over how the scheme operates.

"securities entity" includes any entity engaged in—

(a) the issue, flotation, underwriting, public sale, or distribution of stocks, bonds, debentures, notes, or other securities;

(b) market making;

(c) activities of a broker or dealer;

(d) activities of a futures commission merchant;

(e) activities of an investment adviser or investment company; or

(f) hedge fund or private equity investments in the securities of either privately or publicly held companies; but does not include a bank that, pursuant to its authorised trust and fiduciary activities, purchases and sells investments for the account of its customers or provides financial or investment advice to its customers;

"swaps entity" means any swap dealer, security-based swap dealer, major swap participant, or major security-based swap participant;

"swap dealer" and "swaps dealer" means any entity which—

(a) holds itself out as a dealer in swaps,

(b) makes a market in swaps,\

(c) regularly enters into swaps with counterparties as an ordinary course of business for its own account, or

(d) engages in activity causing itself to be commonly known in the trade as a dealer or market maker in swaps.

5. Application to Crown

This Act binds the Crown in right of each of the States, of the Australian Capital Territory, of the Northern Territory and of Norfolk Island.

6. Re-regulation

The Australian government shall not implement any policy nor propose any legislation or regulation which is incompatible with the Purposes or provisions of this Act.

7. Prohibition on affiliations by banks with non-bank entities

(1) A bank may not—

(i) be or become an affiliate of any insurance company, securities entity, swaps entity or any company which is not a bank; or

(ii) be in common ownership or control with any insurance company, securities entity, swaps entity or any company which is not a bank; or

(iii) engage in any activity that would cause the bank to qualify as an insurance company, securities entity, or swaps entity or any company which is not a bank;

(2) No bank or bank holding company shall, after the commencement of this Act, retain or acquire direct or indirect ownership or control of any company or entity which is not a bank.

(3) A bank may not issue bonds or securities which have any voting rights whatsoever in the management or business of the bank. This provision shall not prevent a bank which is listed on any Australian stock exchange issuing shares which carry voting rights in the management or business of the bank.

8. Individuals eligible to serve on boards of banks

(1) An individual who is an officer, director, partner, or employee of any securities entity, insurance company, or swaps entity may not serve at the same time as an officer, director, employee, or other institution-affiliated party of any bank.

(2) Clause 8(1) shall not apply with respect to service by any individual who is otherwise prohibited under clause 8(1), if the appropriate Minister with the consent of the Committee determines that service by such an individual as an officer, director, employee, or other institution-affiliated party of a bank would not unduly influence—

(i) the investment policies of the bank; or

(ii) the advice that the bank provides to customers.

(3) Subject to a determination under Section 8(2), any individual described in Section 8(1) who, as of the date of commencement of this Act, is serving as an officer, director, employee, or other institution-affiliated party of any bank shall terminate such service as soon as is practicable after such date of commencement, and in no event later than the end of the 60-day period beginning on that date of commencement.

9. Termination of existing affiliations and activities

(1) Any affiliation, common ownership or control, or activity of a bank or bank holding company with any securities entity, insurance company, swaps entity, or any other person, as of the date of commencement of this Act, which is prohibited under Section 7 shall be terminated as soon as is practicable, and in no event later than the end of a 24-month period beginning on that date of commencement.

(2) APRA may order termination of an affiliation, common ownership or control, or activity prohibited by Section 7 before the end of the 24-month period described in clause 9(1), if APRA determines that such action—

(i) is necessary to prevent undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices; and

(ii) is in the public interest.

(3) Subject to a determination under Section 9(2), APRA may extend the 24-month period described in clause 9(1) as to any particular bank for not more than an additional 3 months at a time, if—

(i) APRA certifies that such extension would promote the public interest and would not pose a significant threat to the stability of the banking system or financial markets in Australia; and

(ii) such extension, in the aggregate, does not exceed 1 year for any single bank; and

(iii) such extension has been approved by the Committee.

(4) Upon receipt of an extension under Section 9(3), the bank shall notify shareholders of the bank and the general public that it has failed to comply with the requirements of Section 9(1).

10. Limitation on banking activities

(1) After the expiration of two years after the date of commencement of this Act it shall be unlawful—

(i) for any person, firm, corporation, association, business trust, or other similar organisation, engaged in the business of issuing, underwriting, selling, or distributing, at wholesale or retail, or through syndicate participation, stocks, bonds, debentures, notes, or other securities, to engage at the same time to any extent whatever in the business of receiving deposits subject to cheque or to repayment upon presentation of a passbook, certificate of deposit, or other evidence of debt, or upon request of the depositor; or

(ii) for any person, firm, corporation, association, business trust, or other similar organisation, other than a bank, to engage to any extent whatever in the business of receiving deposits subject to cheque or to repayment upon presentation of a passbook, certificate of deposit, or other evidence of debt, or upon request of the depositor.

(2) Any person who commits or causes a breach of any of the provisions of this Section 10 shall upon conviction be fined not more than $250,000 or imprisoned not more than five years, or both, and any officer, director, employee, or agent of any person, firm, corporation, association, business trust, or other similar organisation who knowingly participates in any such violation shall be punished by a like fine or imprisonment or both.

(3) A bank may not—

(i) invest in a structured or synthetic product, a financial instrument in which a return is calculated based on the value of, or by reference to the performance of, a security, commodity, swap, other asset, or an entity, or any index or basket composed of securities, commodities, swaps, other assets, or entities, other than customarily determined interest rates; or

(ii) otherwise engage in the business of receiving deposits or extending credit for transactions involving structured or synthetic products.

(4) A bank or bank holding company shall not—

(i) engage in the business of a 'securities entity' or a 'swaps entity', including dealing or making markets in securities, repurchase agreements, exchange traded and over-the-counter swaps, or structured or synthetic products, or any other over-the-counter securities, swaps, contracts, or any other agreement that derives its value from, or takes on the form of, such securities, derivatives, or contracts; or

(ii) engage in proprietary trading; or

(iii) own, sponsor, or invest in a hedge fund, or private equity fund, or any other fund that exhibits the characteristics of a fund that takes on proprietary trading activities or positions; or

(iv) hold ineligible securities or derivatives; or

(v) engage in market-making; or

(vi) engage in prime brokerage activities; or

(vii) promote or engage directly or indirectly in any managed investment scheme, including but not limited to the making of loans or granting of credit to, or in any way supporting, either the trustee or manager of any scheme or the members of any scheme; or

(viii) make any loan or grant any credit to, or in any way support, any person or corporation,

whether or not a customer of the bank, if, to the knowledge of the bank, such support or loan or credit is intended to be employed in the undertaking of any investment or activity prohibited to the bank by this Act.

(5) No bank or bank holding company shall act as the medium or agent of any non-banking corporation, partnership, association, business trust, or individual in making loans on the security of stocks, bonds, or other investment securities to brokers or dealers in stocks, bonds, and other investment securities or in any dealings whatsoever in respect of stocks, bonds, or other investment securities.

(6) No bank or bank holding company shall underwrite any issue of stocks, bonds, or other investment securities.

11. Permitted activities of banks

(1) The business of banking which may be undertaken by a bank shall be limited to the following core banking services—

(i) the business of receiving deposits;

(ii) the extension of credit to individuals, businesses, not for profit organisations, and other entities;

(iii) the discount and negotiation of promissory notes, drafts, bills of exchange, and other evidences of debt; and

(iv) the loan of money on personal security.

(2) A bank may participate in payment systems, defined as instruments, banking procedures, and interbank funds transfer systems that ensure the circulation of money.

(3) A bank may buy, sell, and exchange coin and bullion.

(4) A bank may invest in investment securities as defined in Section 4(1) provided that—

(i) the business of dealing in investment securities and shares by a bank shall be limited to—

(I) purchasing and selling such securities and shares without recourse, solely upon the order, and for the account, of customers, and, subject to Section 11(4)(i)(II), in no case for its own account, and the bank shall not underwrite any issue of securities or shares; and

(II) purchasing for its own account investment securities under such limitations as APRA with the approval of the Committee may prescribe, by regulation;

(ii) in no event shall the total amount of the investment securities of any single obligor or maker, held by the bank for its own account, exceed 10 per cent of its capital stock actually paid in and unimpaired and 10 per cent of its unimpaired surplus fund, except that such limitation shall not require any bank to dispose of any investment securities lawfully held by it on the date of commencement of this Act.

(5) In considering any limitations to be imposed by APRA and the Committee pursuant to Section 11(4)(i)(II) APRA and the Committee shall give primary consideration the purposes of this Act as set out in Section 2 and shall not approve any investment security which may directly or indirectly enable any investment or activity prohibited to the bank by this Act.

12. Evasion of provisions

(1) Any attempt to structure any contract, investment, instrument, or product in such a manner that the purpose or effect of such contract, investment, instrument, or product is to evade or attempt to evade the provisions of this Act shall render such contract, investment, instrument, or product void.

(2) Any attempt to structure any contract, investment, instrument, or product in such a manner that the purpose or effect of such contract, investment, instrument, or product is to evade or attempt to evade the provisions of this Act shall constitute a criminal offence and any offender shall upon conviction be fined not more than $250,000 or imprisoned for not more than five years, or both, and any officer, director, employee, or agent of any person, firm, corporation, association, business trust, or other similar organisation who knowingly participates in any such violation shall be punished by a like fine or imprisonment or both.

13. Financial Claims Scheme

(1) The Financial Claims Scheme as created by the *Financial System Legislation Amendment (Financial Claims Scheme and Other Measures) Act 2008* shall extend to all accounts held with any Australian bank whose banking business does not include any prohibited activities.

(2) The Financial Claims Scheme as created by the *Financial System Legislation Amendment (Financial Claims Scheme and Other Measures) Act 2008* shall not extend to any accounts held with any Australian bank whose banking business includes any prohibited activities in breach of the provisions of this Act.

14. Australian Prudential Regulation Authority

(1) As soon as practicable after the commencement of this Act and after the commencement of the first session of each Parliament, a joint committee of members of the Parliament, to be known as the Parliamentary Joint Committee on Prudential Regulation, shall be appointed.

(2) The Committee shall consist of 10 members, of whom:

(i) 5 shall be senators appointed by the Senate; and

(ii) 5 shall be members of the House of Representatives appointed by that House.

(3) The appointment of members by a House shall be in accordance with that House's practice relating to the appointment of members of that House to serve on joint select committees of both Houses.

(4) A person is not eligible for appointment as a member if he or she is:

(i) a Minister; or

(ii) the President or Deputy President of the Senate; or

(iii) the Speaker or Deputy Speaker of the House of Representatives; or

(iv) the Deputy-President or Chairman of a committee of the Senate; or

(v) the Chairman of a committee of the House of Representatives.

(5) A member ceases to hold office:

(i) when the House of Representatives expires or is dissolved; or

(ii) if he or she becomes the holder of an office referred to in a paragraph of subsection (4); or

(iii) if he or she ceases to be a member of the House or Senate by which he or she was appointed; or

(iv) if he or she resigns his or her office.

(6) Subject to this Act, all matters relating to the Committee's powers and proceedings shall be determined by resolution of both Houses.

(7) The Committee's duties are:

(i) to hold public enquiries into, and report to both Houses on:

(I) activities of APRA, or matters connected with such activities, to which, in the Committee's opinion, the Parliament's attention should be directed; or

(II) the operation of any law relating to APRA, or of any other law of the Commonwealth, of a State or Territory or of a foreign country that appears to the Committee to affect significantly the operation of such law;

(ii) to examine each annual report that is prepared by APRA, and to report to both Houses on matters that appear in, or arise out of, that annual report and to which, in the Committee's opinion, the Parliament's attention should be directed; and

(iii) to inquire into any question in connection with APRA's duties that is referred to it by a House, and to report to that House on that question.

(8) (i) Within 30 days of the passage of this Act APRA shall lodge with the Parliament a copy of all Prudential Standards created by APRA pursuant to the A*ustralian Prudential Regulation Authority Act 1998* together with an explanatory statement for each Standard. If any documents are incorporated in the Standard or explanatory statement by reference, the lodgement shall include a description of the incorporated documents and indicate how they may be obtained.

(ii) Subject to any direction given by the Parliamentary Joint Committee on Prudential Regulation, the appropriate Minister shall, as soon as practicable after the commencement of this Act, by notice in writing, give to APRA guidelines to be observed in relation to the performance of APRA's functions that relate to the Australian financial system and Australia's banking system, and may, from time to time, vary or replace guidelines so given.

(iii) Any Prudential Standard proposed by APRA after the commencement of this Act shall be subject to the approval of the Parliament and if not so approved shall be of no force and effect.

(9) (i) Either House of Parliament may pass a resolution disallowing any Prudential Standard at any time after such lodgement, but only if notice of the resolution was given within 15 sitting days of the House or Senate after the lodgement.

(ii) On the passing of a resolution disallowing any Prudential Standard, the Standard shall cease to have effect.

(10) APRA shall not consult with nor accept nor implement the recommendations or decisions of any foreign bank or foreign authority including, but not limited to, the Bank of England and the Bank for International Settlements, without the prior express written approval and consent of the Committee. In seeking such approval and consent APRA shall provide the Committee with full details of any request from such foreign authority or bank and the basis upon which APRA seeks to undertake any contact with such institution or bank or to consider any recommendation or decision of such bank or authority and shall provide to the Committee a copy of all communications with such bodies and a written transcript of any discussions. Any person breaching or authorising a breach of these provisions shall on conviction be liable to a penalty of $250,000 or a prison term of five years or both.

(11) Subject to any terms or conditions as may be imposed by the Committee APRA shall provide to Australian Federal and State Police and law enforcement bodies:

(i) any documents, information or data requested by such bodies regarding any bank under APRA's regulatory supervision;

(ii) any documents, information or data which may come to the attention of or into the possession of APRA and which may evidence a crime or breach of any Australian law.

(12) Any evasion of, or attempt to evade, the provisions of Section 14(11) shall constitute a criminal offence and any offender shall upon conviction be fined not more than $250,000 or imprisoned for not more than five years, or both, and any officer, employee, or agent of APRA who knowingly participates in any such violation shall be punished by a like fine or imprisonment or both.

(13) In the making of any determination to be made by APRA or the Committee pursuant to this Act, APRA and the Committee shall give primary consideration the purposes of this Act as set out in Section 2.

CEC Draft Legislation for Australia's New Commonwealth National Credit Bank

In 1994, the CEC composed draft legislation to re-establish the Commonwealth Bank as a national bank, with expanded powers and functions along the lines originally envisaged by King O'Malley first, and then by John Curtin and Ben Chifley. Below, a summary of the draft bank bill is followed by the draft legislation itself. Because it was written in 1994, this draft relied upon the still government-owned Commonwealth Bank, which since then has been privatised and sold off. While revised legislation, charting the pathway to a new national bank, will need to take into account recent decades' huge changes in Australia's financial architecture, the principles of that legislation will not be altered from those elaborated here.

A national bank dedicated to fostering the growth of the nation's physical economy is the cornerstone of national sovereignty. Beginning with the *Commonwealth of Australia Constitution Act* in 1901, and then the *Banking Act 1959* and the *Reserve Bank Act 1959*, it is clear that Australia was never intended to break free of the colonial yoke. By these laws, the Queen's representative, the Governor-General, is granted awesome powers:

• Section 56 of the Constitution gives the Governor-General total control over the appropriation of revenue or of money, by specifying that no revenue or money bill may be enacted or even debated without the Governor-General's prior written permission delivered to the Parliament on the day.

• The *Reserve Bank Act* grants the Governor-General the right to appoint the governor of the Bank, and thus to control all Reserve Bank policy.

• Part 2 of the *Banking Act 1959* gives the Governor-General the absolute power to issue Authorities for the conduct of the business of banking, the application of any conditions attaching to such Authorities, and the power to determine the criteria and financial standing of an applicant for an Authority to become a bank.

• Part 3 of the *Banking Act 1959* gives the Governor-General power to impose a trade embargo on all exports from, and imports into, Australia. In addition, the absolutely untrammelled extent of his powers is specified in Section 39 of that Act. Note the italicised words in the concluding phrase of this section itemising his powers to make regulations:

"39. (1) Where the Governor-General considers it expedient to do so for purposes related to:

"(a) foreign exchange or the foreign exchange resources of Australia;

"(b) the protection of the currency or the protection of the public credit or revenue of Australia; or

"(c) foreign investment in Australia, Australian investment outside Australia, foreign ownership or control of property in Australia, or of Australian property outside Australia, or Australian ownership or control of property outside Australia, or of foreign property in Australia; the Governor-General may make regulations, not consistent with this Act, in accordance with this Section (emphasis added)."

In other words, even though this Act grants him all-sweeping powers, the Governor-General can in addition do whatever he likes, regardless of what is specified in this Act!

So far as possible (that is, without constitutional changes), the Commonwealth National Credit Bank Bill (CNCB) strips the Governor-General of these arbitrary powers. Since the new CNCB will be clearly acting in the nation's best interests, should the Governor-General choose to exercise his powers under Section 56 of the Constitution to thwart the will of the Parliament in establishing the new Bank, or in the Bank's functioning, a political crisis will follow in which the Governor-General will be exposed for the colonial dictator he really is, and can thus be defeated.

The CNCB bill repeals the *Reserve Bank Act 1959*, completely replacing it. It amends the *Banking Act 1959*. In particular, it removes the Governor-General's powers and grants them to the board of the new Bank. It establishes a Bank which is responsible to Parliament, instead of to the private individuals who currently run the Reserve Bank, and mandates, by law, the Bank to function in such a manner as to cause a rise in Australia's "potential population density" through a "rise in the physical output of the nation" and in "the rate of introduction of new technologies into the economy". Precise measures to calculate such rises are specified, so that the Bank has no choice, but to so function, or an investigation is mandated.

All new credit creation by the new Bank shall, by the terms of this Bill, be tied to tangible hard-commodity production. The present Reserve Bank's ability to create or extinguish credit by "open market operations" is expressly forbidden.

The "powers" of the proposed new Bank are greater than those of the existing Reserve Bank, and in addition to those of the Reserve Bank, include power:

1. to issue notes and establish credits to acquire, sup-

port and retain the sovereignty of Australia and for the defence of the lives, liberty, and happiness of the Australian people;

2. to control and, if necessary, prohibit the movement and dealing in currency, of foreign exchange and financial instruments of the widest definition;

3. to plan, measure, and map the economic state of the nation;

4. to provide credits under a National Emergency Credit Issue Act to guarantee up to $100,000 per individual person, the deposits of such persons in the event of a financial collapse of a substantial percentage of the existing trading banks. The confusing claim that the Reserve Bank, under the *Reserve Bank Act 1959*, has preference over depositors in the event of bank failure, when Section 16 of the *Banking Act 1959* states that priority in the event of bank failure lies with the depositors, has been corrected in Section 55 of the CNCB Bill.

The new Bank will have eight divisions, as follows:

• The Reserve Division, responsible to licence, supervise, and regulate all financial institutions.

• The Mint and Note Division, responsible for the issuance of legal tender, i.e. notes and coins.

• The National Development Division, responsible to assess the nation's need for credit to provide for the establishment and maintenance of infrastructure of national importance and to provide such credit.

• The Statutory Authorities, Scientific and Educational Institutions Division, responsible to assess the nation's need for credit to provide for the capital costs of land, buildings, plant, machinery, and tangible items, as well as for scientific and technological research and development costs for statutory authorities, scientific and educational institutions, and to provide such credit.

• The State and Local Government Division, responsible for assessing the nation's needs for credit for the establishment and maintenance of infrastructure not specifically provided for by other divisions of the bank and to provide that credit at an annual interest rate not to exceed three per cent.

• The Primary Industries Division, responsible for assessing the nation's need for credit and the issuance of credit expressly for family farmers and other family producers of primary products who directly contribute to increasing the potential population density of Australia.

• The Manufacturing Division, responsible for assessing the nation's need for credit and the issuance of credit for manufacturing industries of Australia.

• The International Division, responsible for the administration of exchange controls, and provisions of the Act relating to gold, and, if and when required, the exchange and clearance of financial instruments and other international matters.

The existing informal regulation of trading banks has been formalised, and provisions have been included to stop banks and other financial institutions from engaging in or financing speculative activities relating to currency, foreign exchange, derivatives, and the like.

All activities of the CNCB are to be open for public scrutiny and statements of account and activities are to be laid before the Parliament within 30 days of the close of each calendar month.

The Legislation

An Act to reconstitute the Reserve Bank of Australia as a Commonwealth National Credit Bank for economic development and supervision of the Banking and Non-Bank Financial Corporations systems and for other purposes.

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PART I—PRELIMINARY

Short Title

1. This Act may be cited as the Commonwealth National Credit Bank Act.

Commencement

2. This Act shall come into operation on a date to be fixed by Proclamation.

Repeal and Amendments

3. (1) The *Reserve Bank Act 1959* and all regulations are repealed.

(2) The *Banking Act 1959* is amended in the following respects:

(a) the words "Governor-General", wherever appearing, are deleted and replaced with the words, "the Board";

(b) the word, "Treasurer", wherever appearing, shall be deleted and replaced with the words, "the Board";

(c) Section 8 in Part II is repealed and replaced by the words, "Banking business not to be carried on without authority. A body corporate shall not carry on any banking business in the Commonwealth unless the body corporate is in possession of an authority under the Reserve Division of the Commonwealth National Credit Bank Act";

(d) Sections 9, 10, 11A, 11B, 11C, 12, 13 and 14 are repealed;

(e) The words, "Reserve Bank", wherever appearing, are deleted, and replaced with the words, "Commonwealth National Credit Bank";

(f) The word "Governor", wherever appearing in the context of the Governor of the Reserve Bank, is deleted, and replaced with the words "Chief Executive";

(g) The words "Deputy Governor" and "Deputy Governors", wherever appearing in the context of the Deputy Governor or Governors of the Reserve Bank, are deleted, and replaced with the words, "Deputy Chief Executive";

(h) Sections 17, 18, 19, 20, 21, 22, 23, 24, 25, 32, 33, 34, 35, 39, 39A and 39B, are repealed.

(3) The Financial Corporations Act 1974 is amended in the following respect:

(a) The words, "Governor-General", wherever appearing, are deleted and replaced with the words "Commonwealth National Credit Bank Board".

Interpretation

4. (1) In this Act, unless the contrary intention appears:

"Act" means any legislation enacted by any Parliament of the Commonwealth, States or Territories of the Commonwealth of Australia and includes the rules and regulations made pursuant to such legislation;

"Australia" includes the Territories;

"Australian currency" means notes, coins and specie, payable and denominated in Australian dollars and cents;

"Australian financial instruments" means any instrument denominated in Australian currency evidencing debt or property, or a surety for the fulfilment of a promise or obligation, and also means rights, options, swaps and derivatives so denominated;

"bank" means a person carrying on the business of banking;

"banking" means the business carried on by banks in accordance with the Banking Act 1959 and by State Banks defined by relevant State legislation;

"Chartered Bank" means any bank in Australia upon which the Commonwealth National Credit Bank has conferred the privilege of administering monies created pursuant to a national credit issue;

"Commonwealth" means the Federal Commonwealth of Australia;

"Constitution" means the Constitution of Australia Act as amended;

"derivative" means those contracts that are based on other products either financial or real, or prices

associated with financial products and which involve:

(a) Future delivery, receipt or exchange of financial items such as cash or another derivative instrument; or

(b) Future exchange of real assets for financial items where the contract is marketable. The contracts can either be binding on both parties, as is the case with a currency swap, or subject to the exercise by one party, of a right contained in a contract, as is the case with options;

"family farmer" means any individual whose principal occupation is farming, and who resides on, or in the immediate vicinity, of the land farmed. It includes partnerships in which all individuals are related within the third degree of kinship, and where at least fifty per cent of the beneficial ownership resides with family farmers. It includes corporations in which all individuals are related within the third degree of kinship and in which at least one individual is a family farmer, or in which at least fifty per cent of the voting shares are owned by family farmers;

"farming" means any activity which directly results in the production of food (including viticulture) or fibre (including horticulture);

"financial institution" means any entity to which the provisions of the Banking Act 1959, or the Financial Corporations Act 1974 applies;

"foreign currency" means notes, coins and specie denominated other than in Australian dollars and cents;

"foreign financial instruments" means any instrument denominated in any currency other than Australian currency evidencing debt or property, or a surety for the fulfilment of a promise or obligation, and also means rights, options, swaps, and derivatives so denominated;

"infrastructure" means the public or publicly regulated foundations of a national physical economy, and includes water management, transport, energy, health, education, and communications;

"legal tender of Australia" means Australian currency, which cannot legally be refused in payment of debt;

"money" means the currency of Australia, cheques, notes, credit card transactions and other financial instruments or pledges commonly or generally accepted in payment of debts;

"National Bank" means the Commonwealth National Credit Bank of Australia;

"national banking" means the business carried on by the Commonwealth National Credit Bank of Australia in accordance with this Act;

"national credit issue" means the issuance of credit by the Bank for circulation as money under the authority of Parliament;

"netting agreement" means an agreement between two or more parties whereby a number of trade balances of a debit and credit nature are netted out to produce a single debit or credit figure, or whereby a number of transactions are deemed one transaction;

"non-bank financial organisation" means any organisation to which the *Financial Corporations Act 1974* applies;

"Nostro account" means an account maintained by a bank in Australia in which its transactions with a bank not in Australia, are recorded;

"officer" or "officer of the Bank" means an officer of the Commonwealth National Credit Bank;

"open market operations" means the practice of debt or monetary policy management by or through the purchase, sale or dealing in government-issued securities;

"Parliament" means the Parliament of the Commonwealth;

"person" means any person, group of persons, corporation, trust, or group of corporations or trusts;

"potential population-density" means the numbers of individuals existing per square kilometre, supported solely by the physical economy of the nation, plus the number who could be so supported. A rising potential population-density means an increasing number of individuals who could be potentially supported per unit area, and includes an increased quality of individual, through higher education, skill levels, and general culture;

"property" includes securities and rights under securities;

"regulations" means regulations made pursuant to the provisions of this Act or any other Act of Parliament;

"repealed Act" means an Act repealed by this Act;

"resident" means a person, not being a body corporate, who is ordinarily resident in Australia or a body corporate which is incorporated in Australia;

"statutory office" means the office of Chief Executive or Deputy Chief Executive;

"statutory reserve deposit" means the non-callable monies deposited with the Bank in accordance with the provisions of Sub-section 13(h) of the Reserve Division;

"the Bank" means the Commonwealth National Credit Bank of Australia;

"the Board" means the Commonwealth National Credit Bank Board of Directors established by this Act;

"the Chief Executive" means the Chief Executive of the Bank;

"the Deputy Chief Executive" means the Deputy Chief Executive of the Bank;

"the former Reserve Bank of Australia" means the Reserve Bank of Australia established under the *Reserve Bank Act 1959*:

"usurious" means interest rates exceeding the following rates where the purpose of the loan is related to the physical production of tangible goods:

(a) five per cent per annum calculated daily on the unpaid balance where the debt is mainly secured by land or fixed assets thereon;

(b) six per cent per annum calculated daily on the

unpaid balance where the debt is mainly secured by plant, machinery, vehicle or other movable asset;

(c) seven per cent per annum calculated daily on the unpaid balance where the debt is mainly secured by personal guarantee, inventory items, crop or produce lien, or the like; and,

(d) at a rate of interest exceeding ten per cent per annum, calculated daily on the unpaid balance where the loan is not related to the physical production of tangible goods.

"Vostro account" means an account maintained by a bank in Australia in which transactions of any foreign bank are recorded.

Application to Territories

5. This Act extends to all Territories of the Commonwealth.

Act to Bind the Crown

6. This Act binds the Crown.

PART II—CONSTITUTION, POLICY AND MANAGEMENT OF THE COMMONWEALTH NATIONAL CREDIT BANK

The Commonwealth National Credit Bank

7. The body corporate established under the *Commonwealth Bank Act 1911* under the name Commonwealth Bank of Australia, and continued in existence under the subsequent Acts, namely the *Commonwealth Bank Act 1945*, *Reserve Bank Act 1959*, and *Commonwealth National Credit Bank Act*:

(1) is preserved and continues in existence as a body corporate under and subject to the provisions of this Act, under the name Commonwealth National Credit Bank of Australia;

(2) shall have a seal;

(3) is capable of acquiring, holding and disposing of real and personal property, and of suing and being sued.

General Powers

8. The Bank has such powers as are necessary for the purposes of this Act, and in particular, and in addition to any other powers conferred on it by this Act, has power:

(1) to receive money on deposit;

(2) to borrow and lend money;

(3) to buy, sell, discount and rediscount bills of exchange arising from tangible hard commodity production. The practice of creating or extinguishing money supply through "open market operations" is forbidden;

(4) to buy, sell and otherwise deal in foreign currency, specie, gold and other precious metals;

(5) to issue notes and establish credits to acquire, support and retain the sovereignty of Australia, and for the defence of the lives, liberty, and happiness of the Australian people;

(6) to issue notes, bills, drafts, and effect transfers of money;

(7) to establish credits and give guarantees;

(8) to underwrite and make loans;

(9) to regulate financial institutions and State Banks operating beyond the borders of one state or territory, but not a State Bank operating within its home State, unless with prior agreement of the State;

(10) to use and direct the resources of the nation to extract and make available to the Bank the data upon which to measure the rate of increase of potential population-density;

(11) to control the rate of exchange of Australian currency with respect to foreign currencies;

(12) to control or prohibit, whether within, or outside the Commonwealth, the buying, borrowing, selling, lending, exchanging, or that which has the effect of such, or any other dealing or transaction that relates to Australian currency, or Australian financial instruments by a non-resident of the Commonwealth;

(13) to control or prohibit the taking or sending out of the Commonwealth, and the bringing or sending into the Commonwealth, of Australian or foreign currency, or Australian or foreign financial instruments, including the transfer of such instruments from a register outside the Commonwealth to a register within the Commonwealth or vice versa and also the transfer of Australian financial instruments between registers outside the Commonwealth;

(14) to control or prohibit whether within or outside the Commonwealth by a resident of the Commonwealth, the buying, borrowing, selling, lending, exchanging, or that which has the effect of such, or any other dealing or transaction that relates to foreign currency or foreign financial instruments, and such dealings within the Commonwealth by a non-resident of the Commonwealth;

(15) to control or prohibit the making of markets in Australian financial instruments, or foreign financial instruments within, or partly within, the Commonwealth;

(16) to control or prohibit any transaction that has the effect of, or that otherwise relates to, the buying, selling, leasing, or exchanging of, or other dealing with property, that is outside Australia, by or on behalf of a resident of the Commonwealth or the buying, selling, leasing, or exchanging of, or other dealing with property within the Commonwealth by a non-resident;

(17) to obtain accounts, books, documents, other papers, electronic data, or other information for purposes related to the exercise of the Bank's powers;

(18) to provide a continual assessment of the need for credit and to emit and issue money;

(19) in the event of a banking emergency as defined by the collapse of a substantial percentage of the corporations holding Authorities to conduct the business of banking, the Board may prepare for the consideration of the Parliament, a bill for a "National Emergency Credit Issue Act". The credits authorised by the enactment of such bill, shall be used to guarantee the deposits of individual depositors in financial institutions, up to a limit of $100,000 per individual;

(20) to do anything incidental to any of its powers.

General Policy Respecting Physical Economy

9. (1) Except in the case of national emergency declared by the Parliament, the Bank shall only issue credit against the tangible wealth-creating capacity of the nation. Such capacity is defined as agriculture, mining and raw materials extraction, manufacturing, infrastructure, health care, education, and scientific research.

(2) The Reserve Division shall monitor all new credit issuance to ensure that the policy summarised in Subsection (1) is adhered to.

(3) The Bank shall guide its activities so as to cause a rise in both:

(a) the physical output of the nation; and

(b) the rate of introduction of new technologies into the economy.

(4) The growth described in Sub-section (3) shall be measured and mapped in the annual accounts of the nation, which shall be placed before the Parliament, and expressly show:

(a) the rise in the per capita consumption of an average market basket of consumer goods from year to year, at a constant or declining cost to the consumer;

(b) the rising ratio of production of capital goods, plant, equipment, and basic economic infrastructure, compared to consumer goods;

(c) the rise in energy usage from year to year, both per capita, and per hectare;

(d) the rise in energy flux-density of the technologies of energy production, measured in watts per square centimetre per second, or a meaningful equivalent;

(e) the rise in both the actual, as well as potential population density, from year to year. If there be no rise in any of the factors described in Sub-clauses (a), (b), (c), (d), or (e), then an investigation shall be carried out to determine the cause of that stagnation or collapse, and the results of that investigation shall be laid before the Parliament.

Authority

10. The Bank shall at all times act under authority of the Parliament and as determined in accordance with this Act.

Establishment of the Commonwealth National Credit Bank Board

11. There shall be a Commonwealth National Credit Bank Board, which shall be constituted as provided by Part III.

Functions of the Commonwealth National Credit Bank Board

12. It is the duty of the Board to ensure that the monetary, economic, and banking policy of the Bank is directed to the greatest advantage of the people of Australia, and that the powers of the Bank under this Act, the *Banking Act 1959* and the *Financial Corporations Act 1974*, are exercised in such a manner as will best contribute to the:

(1) stability of the Australian currency;

(2) attainment and maintenance of full employment in the Commonwealth;

(3) economic prosperity of the people of the Commonwealth;

(4) defence of the lives, liberty, and happiness of the people of the Commonwealth;

(5) management and progressive elimination of the foreign debt of the Commonwealth, the States and of the public institutions and private sector:

(6) attainment and retention of national sovereignty;

(7) health care, welfare, education, and cultural enrichment of the people of the Commonwealth;

(8) security of the food supply of the people of the Commonwealth;

(9) provision of national and state infrastructure;

(10) encouragement of productive private enterprise within the Commonwealth.

Management of the Bank

13. The business of the Bank shall be managed by the Board in accordance with the provisions of this Act, and specifically:

(1) The Board shall appoint persons to the following positions for such period, and on such terms as are consistent with the provisions of this Act, and may revoke any such appointment:

(a) Chief Executive;

(b) Deputy Chief Executive; and

(c) Divisional Managers for each of the eight Divisions of the Bank;

(2) The Board shall delegate to the Chief Executive and the Deputy Chief Executive executive powers, as are necessary for the proper and efficient functioning of the Bank as they so determine, and may from time to time revoke, withdraw, alter or vary, all, or any of these powers;

(3) Divisional Managers shall manage their respective Divisions under the executive authority of the Chief Executive of the Bank;

(4) The Deputy Chief Executive shall perform such duties as the Chief Executive directs, and in the event of a vacancy in the office of Chief Executive, or in the event that the Chief Executive is temporarily unable to fulfil his duties for any reason whatsoever, the Deputy Chief Executive shall perform the duties of the Chief Executive, and shall have, and may exercise, the powers and functions of the Chief Executive, provided that he shall first provide the Board written advice of his intention to so act;

(5) All authority granted to each and every Division of the Bank, by this Act, shall be subject to approval of the Board.

PART III—THE COMMONWEALTH NATIONAL CREDIT BANK BOARD AND THE CHIEF EXECUTIVE AND DEPUTY CHIEF EXECUTIVE OF THE BANK

Membership of the Board

14. (1) The Commonwealth National Credit Bank Board shall consist of:

(a) the Chief Executive (ex officio with no voting rights);

(b) the Deputy Chief Executive (ex officio with no voting rights);

(c) the Prime Minister of the Commonwealth;

(d) the Treasurer of the Commonwealth;

(e) the Premiers of each State, and the Chief Minister of the Northern Territory;

(f) five Federal Ministers of the Commonwealth relevant to primary industry, secondary industry, defence, health, and education.

(2) A member of the Board shall cease to be eligible to hold his seat on the Board if, and from such time, as he shall be replaced by a successor to his ministerial position, or other qualifying appointment.

(3) No member of the Board shall appoint a proxy, or any other person to act on his behalf.

Remuneration of Members

15. (1) A member of the Board shall be paid such remuneration as is determined by the Remuneration Tribunal.

(2) A member of the Board shall be paid such allowances as are prescribed.

(3) This section has effect subject to the Remuneration Tribunals Act 1973.

(4) A reference in this section to a member of the Board does not include a reference to the Chief Executive or Deputy Chief Executive.

Declaration by Members

16. A member of the Board shall, before entering upon his duties or exercising any power under this Act, make before a Justice of the Peace or a Commissioner for taking Affidavits, an oath or affirmation in accordance with the form described in the Regulations.

Disqualification from Membership

17. (1) A person who is a director, officer, employee or agent of a corporation (other than the Bank), or who has, during a period of three years prior to his appointment to the Board, held such a position with any such corporation, the business of which is wholly or partly that of a financial institution, is not capable of appointment, or of continuing to act as a member of the Board.

(2) A person who has been a member of the Board, shall not for a period of three years commencing from the date he ceased to be a member of the Board, act as a director, officer, employee or agent of a corporation, the business of which is wholly or partly that of a financial institution.

Vacation of Office by Board Member

18. (1) If a member of the Board appointed under Section 14:

(a) becomes permanently incapable of performing his duties;

(b) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors, or makes any assignment of his remuneration for their benefit:

(c) resigns his office by writing under his hand, addressed to the Chairman of the Board;

(d) is absent, except on leave granted by the Board, from all meetings of the Board held during two consecutive months or during any three months in any calendar year; or

(e) fails to comply with his obligations under Section 23: then the remainder of the Board shall instruct the Chairman, and the Chairman shall so terminate his appointment.

Vacancies Not to Invalidate Proceedings

19. Subject to Sub-section (4) of Section 21, the exercise of the rights, powers, authorities or functions or the performance of the duties or obligations of the Board is not affected by reason only of there being a vacancy in the office of a member or any number of members.

Chairman and Acting Chairman

20. The Prime Minister of the Commonwealth shall be the Chairman of the Board, and in his absence an Acting Chairman shall be elected by the Board.

Meetings of the Board

21. (1) The Board shall meet at such times and places as the Board determines, but such determinations shall include not less than one meeting each calendar year in Darwin and in each capital city of the Commonwealth.

(2) The Board shall meet not less frequently than once a month.

(3) The Chairman shall preside at all meetings of the Board at which he is present, and, in the absence of the Chairman, the Acting Chairman so elected, shall preside.

(4) Eight members form a quorum at a meeting of the Board.

(5) Questions arising at a meeting of the Board shall be decided by a simple majority of the votes of the members present and voting.

(6) The member presiding at a meeting of the Board shall have a deliberative vote, and in the event of an equality of votes, shall also have the casting vote.

(7) The Board shall keep full minutes of its proceedings, both audio-tape and written transcript.

Exclusion of Chief Executive and Deputy Chief Executive from Certain Deliberations

22. The Chief Executive and Deputy Chief Executive shall not be present during any deliberation of the Board, or take part in any decision of the Board, in relation to the determination or application of any terms or conditions on which the Chief Executive or Deputy Chief Executive holds office.

Disclosure of Interest in Contracts

23. (1) A member of the Board, who is directly or indirectly interested in a contract made, or proposed to be made by the Bank, shall disclose the nature of the member's interest at the first meeting of the Board at which the

member is present when the relevant facts have come to the knowledge of the member.

(2) A disclosure under Sub-section (1) shall be recorded in the minutes of the Board, and after the disclosure, the member of the Board:

(a) shall not take part in any deliberation or decision of the Board with respect to that contract; and

(b) shall be disregarded for the purpose of constituting a quorum of the Board for any such deliberation or decision.

Chief Executive and Deputy Chief Executive

24. (1) The Chief Executive and Deputy Chief Executive:

(a) shall be appointed by the Board and such appointments shall be ratified by Parliament;

(b) shall be appointed for such period, not exceeding seven years, as the Board determines, and are eligible for reappointment; and

(c) hold office subject to good behaviour.

Holding Office

25. The Chief Executive and Deputy Chief Executive shall hold office on such terms and conditions (including terms and conditions relating to remuneration and allowances) in relation to matters not provided for by this Act, as are determined by the Board. Such terms and conditions shall be a matter of public record.

Vacation of Office by Chief Executive or Deputy Chief Executive

26. (1) The Board shall terminate the employment of the Chief Executive or Deputy Chief Executive if he:

(a) becomes permanently incapable of performing his duties;

(b) engages in any paid employment other than with the Bank, or becomes a member of, or acts in the interest or on behalf of, a secret society or society with secrets, or a foreign power, or interests associated with a foreign power;

(c) becomes bankrupt, applies to take benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors, or makes an assignment of his salary for their benefit; or

(d) resigns his office by writing under his hand addressed to the Chairman.

(2) If the Chief Executive or the Deputy Chief Executive is guilty of protracted or gross negligence in the discharge of his duties, or repeatedly fails to act in the best interests of the Bank, and the people of Australia, the Board may, if it so resolves, terminate his appointment.

PART IV—NATIONAL BANKING

Commonwealth National Credit Bank to Act as a National Bank

27. The Bank:

(1) is the National Bank of the Commonwealth;

(2) shall carry on business as a national bank;

(3) subject to this Act, to the *Banking Act 1959*, and the *Financial Corporations Act 1974*, shall not carry on business otherwise than as a national bank;

(4) shall have absolute and sole authority to issue the legal tender of the Commonwealth;

(5) subject to the *Banking Act 1959*, and the *Financial Corporations Act 1974*, the Bank shall regulate all financial institutions governed by such Acts.

Bank to be Banker for the Commonwealth and Others

28. The Bank shall, insofar as the Commonwealth and any other recipient of a national credit issue require it to do so, act as banker and financial agent of the Commonwealth and such other recipient.

Capital

29. The capital of the Bank shall be the aggregate of:

(1) the capital of the former Reserve Bank of Australia immediately before the enactment of this Act; and

(2) such other sums as are transferred from the Reserve Bank Reserve Fund in pursuance of Section 30 of this Act.

Reserve Fund

30. (1) The Bank shall have a Reserve Fund, to be called the "Commonwealth National Credit Bank Reserve Fund", which shall consist of:

(a) the amount standing to the credit of the Reserve Bank Reserve Fund immediately before the enactment of this Act; and

(b) such other sums as are placed to its credit in pursuance of Section 31 of this Act.

(2) The Board may, from time to time, transfer from the Commonwealth National Credit Bank Reserve Fund to the capital of the Bank, for the purposes of Part IV of this Act, such sums as the Board determines.

Profits

31. The net profit of the Bank in each year shall be dealt with as follows:

(1) such amount as the Board determines shall be placed to the credit of the Commonwealth National Credit Bank Reserve Fund; and

(2) the remainder shall be paid to the Commonwealth.

Certain Prohibitions on Trading Activities of the Bank

32. Subject to Section 54 in Part VII of this Act, the Bank shall not participate as a Principal in any project financed by a national credit issue, nor is the Bank permitted to receive dividends, profit share, or other pecuniary benefit from any project financed by a national credit issue.

PART V—DIVISIONS WITHIN THE BANK

Reserve Division

33. (1) The Reserve Division shall:

(a) licence, supervise and regulate all financial institutions;

(b) eliminate usurious and unconscionable banking and commercial practices, and the risk of such practices;

(c) set the operational liquidity ratio of financial institutions at 18 per cent of the demand deposits and mandate that such liquidity ratio be held in the legal tender of Australia;

(d) maintain a system of national economic accounting in the form described in the Regulations to accurately reflect the economic state of the nation at all times.

(2) The Reserve Division shall determine the criteria for issuance of authority to conduct business under the *Banking Act 1959*, and the *Financial Corporations Act 1974*, and relying upon such criteria, shall accept or reject applications for authority to carry on the business of financial institutions, and issue such authorities.

(3) The Reserve Division shall determine the criteria for the issue of Charters to banks to become Chartered Banks, and relying upon such criteria, shall accept, or reject applications for authority to carry on the business of Chartered Banks, and issue such Charters.

(4) The Reserve Division shall have the power, by notice in writing served on the body corporate, to which an authority or Charter was issued under the foregoing provisions, to:

(a) impose conditions, or additional conditions, on an authority or Charter; and

(b) vary or revoke conditions imposed on an authority or Charter and, where an authority or Charter under this Division is subject to conditions, the body corporate shall comply with those conditions.

(5) Where an authority or Charter under this Division is granted to a body corporate, the First Schedule of the *Banking Act 1959*, or the Register of Corporations kept for the purposes of the *Financial Corporations Act 1974*, as the case may be, is hereby amended by the authority of this Act, with the addition of the name of the body corporate.

(6) Where the Reserve Division is satisfied that a body corporate in possession of an authority or Charter under this Division, has ceased to carry on the business of a financial institution in Australia, this Division may revoke its authority or Charter.

(7) Where:

(a) A body corporate in possession of an authority or Charter under this Division requests the revocation of the authority or Charter, by notice in writing to the Division; and

(b) The Division is satisfied that:

(i) The revocation would not prejudice the interests of the depositors of the financial institution; and

(ii) The revocation would not likely be to the detriment of the national interest; then, the Bank shall revoke the authority or Charter;

(c) If an authority or Charter under this Division is so revoked, the First Schedule of the *Banking Act 1959*, or the Register of Corporations kept for the purpose of the *Financial Corporations Act 1974*, as the case may be, is deemed to be amended by the omission of the name of the financial institution concerned.

(8) Where the Board is satisfied that a financial institution in possession of an authority or Charter under this division:

(a) has ceased to exist; or

(b) has changed its name; then the Division shall publish in the Gazette a notice to that effect and, upon the publication of the notice, the First Schedule of the *Banking Act 1959*, or the Register of Corporations kept for the purpose of the *Financial Corporations Act 1974*, and the register of Chartered Banks kept for the purposes of this Act, shall be amended with effect from the date on which the body corporate ceased to exist, or changed its name, by deletion or by change of the name.

(9) The Reserve Division shall publish in the Gazette, notice of any authority or Charter granted or revoked by this Division, or any instrument made under Sub-section (4) of Section 33.

(10) A person other than a body corporate shall not carry on the business of a financial institution in Australia.

(11) With effect from the date of proclamation of this Act each corporation listed in the first schedule of the *Banking Act 1959* shall be deemed to be a Chartered Bank, subject to acceptance in writing of the rules of the Charter contained in the Regulations. Such acceptance shall be conveyed in writing to the Reserve Division within ninety days of the date of proclamation of this Act. Charters shall be granted by the Division for terms not exceeding thirty-six calendar months, and each Charter shall be granted upon such terms and conditions as the Division shall determine. Charters so granted shall be considered for renewal upon receipt by the Division of a written request to renew. Renewal shall be at the discretion of the Division. Any Charter not so renewed by the expiry date shall be deemed to have lapsed, and all concessions and business flowing from the Charter shall be withdrawn.

(12) No financial institution shall be permitted to participate directly or indirectly in the undermentioned activities:

(a) currency speculation including derivatives thereof;

(b) equity participation in any entity, other than for the purposes of orderly disposal of property acquired by way of default on an outstanding loan;

(c) trade, commerce, agriculture, industry or other like undertaking;

(d) usurious or other unconscionable practices;

(e) trading in stocks, bonds, or other securities or financial instruments, derivatives, or the financing of any such trading, where the purpose is speculative.

(13) The Reserve Division shall prescribe regulations for the prudential conduct, supervision, and monitoring of all financial institutions. Such regulations shall require all such institutions to conduct their business in accordance with the provisions of the Regulations. Further, the Regulations shall:

(a) provide for the collection, analysis, and publication of information in respect of the business, and financial standing of financial institutions;

(b) encourage and promote sound ethical practice by financial institutions;

(c) provide for evaluation of the effectiveness and implementation of the Regulations;

(d) provide for the control of rates of interest, discount and other charges payable to, and by financial institutions, and for the elimination of usurious practices;

(e) provide for determination of the lending policy of financial institutions including the purpose for which monies will, and will not be advanced. Such determinations shall favour lending at low rates of interest, and on otherwise favourable terms, for purposes that increase the potential population-density, and eliminate or penalise lending for speculative purposes;

(f) explicitly describe and determine capital adequacy ratios and prime assets ratios;

(g) explicitly describe and determine prudential financial standards relating to market, credit, and data risks, off balance sheet business, derivative products and the like;

(h) provide for an account to be known as the Statutory Reserve Deposit Account to be maintained with the Bank, and for such Account to be in credit to the extent specified in the Regulations;

(i) subject to Section 33 (1) (c), explicitly describe and determine operational liquidity ratios;

(j) provide for the percentile nominated in Section 33 (1)(c) to be reduced by one percentage point for each one percentage point that loans to productive industries, as determined by the Reserve Division, exceed 60 per cent of all loans, down to a minimum liquidity ratio of 5 per cent;

(k) stipulate that a serious and protracted breach of the operational liquidity ratio of 18 per cent, except as specified in Sub-section (13) (j) above, shall be cause for an immediate investigation in accordance with Sub-section (14) of this section;

(l) prescribe penalties for offences against the regulations not exceeding $100,000 fine plus confiscation of the gains arising from such offences.

(14) The Reserve Division shall protect the depositors of financial institutions, and shall have the power with the prior consent of the Board to carry out any investigation, and to control the affairs of such financial institutions, and such financial institutions shall assist all such investigations and control, and provide all deeds, securities, financial instruments, undertakings, and other intangibles or things considered necessary, and furthermore:

(a) a financial institution that considers that it is likely to become unable to meet its obligations, or is about to suspend payment, shall forthwith in writing inform the Reserve Division;

(b) where a financial institution informs the Reserve Division that it considers that it is likely to become unable to meet its obligations, or that it is about to suspend payment, or the Reserve Division is of the opinion that a financial institution is in serious and protracted breach of this Act, the *Banking Act 1959*, or the *Financial Corporations Act 1974*, or is likely to become unable to meet its obligations, or is about to suspend payments, then the Reserve Division shall investigate the affairs of such financial institution and assume control of, and carry on the business of that financial institution;

(c) where the Reserve Division has under this section resolved to investigate the affairs of a financial institution, such corporation shall submit its business to the control of the Reserve Division, and shall provide all such access, books, accounts, documents, electronic data, information, personnel, facilities, and other intangibles and things that the Reserve Division requires to conduct the investigation, or to carry on the business of that financial institution;

(d) where the Reserve Division in pursuance of this section has assumed control of the business of a financial institution, the Reserve Division shall, subject to Sub-section (14) (f), remain in control of, and direct the affairs of that financial institution, until such time as the Reserve Division is satisfied that suitable provision has been made for repayment of the deposits of that financial institution, and in the opinion of the Reserve Division, it is no longer necessary for the Reserve Division to remain in control of the business of that financial institution;

(e) whenever the Reserve Division is in control of a financial institution, the laws relating to insolvency and liquidation of companies shall not apply, nor shall any other person, organisation or entity, be appointed to supervise, conduct, or determine, any matter in relation to the winding up, liquidation or restructuring of a financial institution;

(f) where the Reserve Division has, in pursuance of this Sub-section, assumed control of the business of a financial institution, a Full Court of the Federal Court of Australia, may, upon application of that financial institution, order that the Reserve Division cease to control the business of that financial institution as from the date specified in the order, if, after the expiration of twelve months from the date the Reserve Division assumed control, the Court is satisfied that it is no longer necessary for the protection of the depositors of that financial institution that the Reserve Division should remain in control of the business of that financial institution;

(g) where the Reserve Division, in pursuance of this Subsection, assumes control of the business of a financial institution, and ceases such control, the Reserve Division shall publish that fact in the Gazette.

(15) The Reserve Division shall publish in the Gazette, detailed investigation reports and accounts of any corporation under investigation or control, in pursuance of the obligations contained in the preceding Sub-section.

(16) In the event of a financial institution becoming unable to meet its obligations, or suspending payment, the assets of such corporation in the Commonwealth shall be available to meet its deposit liabilities in priority to all other liabilities of that corporation, and the provisions of any netting or similar type agreement entered into by that financial institution, shall be of no consequence or effect, and shall not operate to frustrate the intention of this Sub-section (14).

(17) Every financial institution shall hold and own assets in the Commonwealth of a value, not less than the total amount of its deposit liabilities in the Commonwealth.

Mint and Note Division

34. The Mint and Note Division shall be responsible for the issuance, reissuance and cancellation of Australian notes and coins as defined in the *Australian Notes Act 1910*, under Part VII of the *Commonwealth Bank Act 1911*, under Part VI of the *Commonwealth Bank Act 1945*, under Part V of the *Reserve Bank Act 1959*, and under this Act, and furthermore:

(1) denomination of notes and coins shall be detailed in the Regulations, or any other denomination that the Board, by instrument in writing published in the Gazette, determines;

(2) Australian notes and coins issued by the Mint and Note Division are to be legal tender throughout the Commonwealth;

(3) the Mint and Note Division shall ensure that there is sufficient supply of legal tender as required by the Australian economy, and that such supply and issue is first authorised by the Parliament;

(4) the Australian notes and coins issued in pursuance of this Division, shall bear such signatures, and be of such design, as detailed in the Regulations;

(5) neither a person, nor a State, shall issue a bill, or note, or coin, for payment of money payable to bearer on demand, and intended for circulation as legal tender.

National Development Division

35. The National Development Division shall be responsible for assessment of the nation's need for credit, to provide for the capital costs of establishing and maintaining infrastructure, not otherwise specifically provided for by other Divisions of the Bank, but as defined by the Constitution and under the authority of a minister responsible to the Parliament. It shall be the further responsibility of this Division to provide such credit, upon such terms, as specified in the relevant "National Development Credit Issue Act", and as the Board determines at an annual interest rate not to exceed three per cent.

The National Development Division shall:

(1) annually call upon the resources of Commonwealth Departments, and advertise in the major media, for the people of Australia, to assist in the assessment of the need for both;

(a) new infrastructure;

(b) the maintenance and modification of existing infrastructure;

(2) after receiving submissions from the public and Commonwealth Departments, and assessing the Nation's needs, for credit for the ensuing twelve months, prepare, for approval by the Board, a parliamentary bill in the terms described in the Regulations for a National Development Credit Issue Act, for a national credit issue;

(3) upon approval by the Board, and by no later than 31st May each year, cause the Treasurer to introduce into the Parliament the Bill to authorise creation of the required credit;

(4) use the Proclamation of the bill; as amended by Parliament; as the authority for the national credit issue for the works detailed therein, and furthermore

(a) such bill shall be subject to normal constitutional procedures and requirements, as a law appropriating monies;

(b) nothing herein, shall prevent the submission and enactment of more than one bill each year for a national credit issue, through this Division of the Bank;

(c) under authority of the National Development Credit Issue Act, the Division shall credit a "National Development Account", the total amount authorised by the Act, and from such account, the Bank shall pay to the credit of each Commonwealth Department's "National Infrastructure Account" with the Bank, such amounts as specified in the National Development Credit Issue Act.

Statutory Authorities, Scientific and Educational Institutions Division

36. The Statutory Authorities, Scientific and Educational Institutions Division, shall be responsible for assessing

the nation's needs for credit to provide for the capital costs of land, buildings, plant, machinery, and tangible items, as well as for scientific and technological research and development costs for statutory authorities, scientific and educational institutions. It shall be the further responsibility of this Division to provide such credit, upon such terms, as specified in the relevant "Statutory Authorities, Scientific and Educational Institutions National Credit Issue Act", and as the Board determines but at an annual interest rate not to exceed three per cent.

(1) The Statutory Authorities, Scientific and Educational Institutions Division shall:

(a) annually call upon the resources of Commonwealth and State authorities and institutions and the people of Australia, by advertisement in the major media and otherwise, to assist in the assessment of the need for land, buildings, plant, machinery, and tangible items, the maintenance and modification of such existing property, together with scientific and technological research and development;

(b) after receiving submissions from the public, and Commonwealth and State authorities and institutions, and assessing the Nation's needs for credit for the ensuing twelve months, prepare for approval of the Board, a bill in the terms described in the Regulations, for a Parliamentary Act entitled Statutory Authorities, Scientific and Educational Institutions National Credit Issue Act, for a national credit issue, to pay for the costs for establishing, modifying, and maintaining the property, and for the scientific and technological research and development detailed therein;

(c) upon approval by the Board, and by no later than 31st May each year, cause the Treasurer to introduce into Parliament, the bill to authorise creation of the required credit;

(d) use the Proclamation of the bill, as amended by Parliament, as the authority for the national credit issue for the property, works, research, and development described therein.

(2) Furthermore:

(a) such bill shall be subject to normal constitutional procedures and requirements, as a law appropriating monies;

(b) nothing herein shall prevent the submission and enactment of more than one bill each year, for a national credit issue through this Division of the Bank;

(c) under authority of the Statutory Authorities, Scientific and Educational Institutions National Credit Issue Act, the Bank shall credit an account designated "Statutory Authorities, Scientific and Educational Institutions National Credit Issue Account", the total amount authorised by the Act. From such account, the Bank shall pay to the credit of each Statutory Authority, Scientific or Educational Institutions Account with the Bank, such amounts as specified in the Statutory Authorities, Scientific and Educational Institutions National Credit Issue Act;

(d) such credit shall be for the payment of capital works and research purposes, and not for operating costs or budget supplement;

(e) the Bank shall, in every instance, take a security charge over the asset created, or the outcome of research, and hold such charge until the borrowing has been repaid or extinguished;

(f) at the time of preparing the bill described in Subsection (2), there shall also be prepared a document citing the reasons for inclusion or exclusion of each proposal considered, and such document shall be submitted to the Board with the draft bill, and shall become a matter of public record.

State and Local Government Division

37. The State and Local Government Division shall be responsible for assessing the nation's needs for credit for establishment and maintenance of infrastructure which comes, or would come within the responsibility of a State Government Minister. A further responsibility of this Division shall be to provide credit upon such terms as specified in the relevant "State and Local Government National Credit Issue Act", at an annual interest rate not to exceed three per cent.

(1) The State and Local Government Division shall:

(a) annually call upon the State and Territorial Governments and the people of Australia, by advertisement in the major media and otherwise, to assist in the assessing of the need for the establishment of new infrastructure and the maintenance of existing infrastructure;

(b) after receiving submissions from the public and State and Territorial Governments, and assessing of the needs of each State and Territory for credit for the ensuing twelve months, prepare for approval by the Board, a parliamentary bill in the terms described in the Regulations for a State and Local Government National Credit Issue Act;

(c) upon approval by the Board, and by no later than 31st May each year, cause the Treasurer to introduce into the Parliament the bill to authorise creation of the required credit;

(d) use the Proclamation of the bill, as amended by Parliament, as the authorisation for the national credit issue for the works detailed therein.

(2) Furthermore:

(a) such bill shall be subject to normal constitutional procedures and requirements as a law appropriating monies;

(b) nothing herein shall prevent the submission and enactment of more than one bill each year for a national credit issue through this Division of the Bank;

(c) under authority of the State and Local Government Credit Issue Act, the Bank shall credit an account designated "State and Local Government National Credit Issue Account" the total amount authorised by the Act. From such account the Bank shall pay to the credit of each State and Local Government National Credit Issue Drawings Account with the Chartered Bank or State Bank named in the Act for that purpose, the total amount due to each particular State;

(d) the State and Chartered Banks shall permit the State Government Departments, and Local Government Councils, to draw funds due to them in monthly tranches, after completion of all security arrangements detailed in Sub-clauses (e) and (f), and after approval by the State or Chartered Bank of the invoices for work carried out or goods and property purchased, in connection with each project funded by the National Credit Issue;

(e) the State Bank or Chartered Bank shall, in every instance, take a security charge over the asset created, and the land upon which it is constructed, and hold such charge until the borrowing has been repaid or extinguished;

(f) the State and Chartered Banks' liability to the Bank, in respect of a national credit issue under this Division, shall be secured by a floating or specific charge, and discharged upon repayment to the Bank, of the amount of the original credit and all other appertaining charges and interest;

(g) such national credit shall be for the payment of capital works and their maintenance, and not for operating costs or budget supplement;

(h) at the time of preparing any bill described in this section, there shall also be prepared a document citing the reasons for inclusion or exclusion of each proposal considered, and such document shall be submitted to the Board with the draft bill, and it shall be a matter of public record;

(i) interest, and all other charges by the State and Chartered Banks in relation to loans, made in accordance with the provisions of this Division, shall be not more than two per cent per annum of the outstanding balance, in addition to interest charges of the Bank.

Primary Industries Division

38. The Primary Industries Division is responsible for assessing the nation's need for credit to provide for the costs of land, buildings, plant, machinery, other tangible items, and working capital for primary industry.

A further responsibility of this Division shall be to provide credit upon such terms as specified in the relevant "Primary Industries National Credit Issue Act", and, at an interest rate to Chartered Banks for reloaning to primary producers of not more than two per cent and, subject to Sub-section (8) of Section 38, at an interest rate for loans directly to primary producers of not more than five per cent.

(1) The Primary Industries Division shall:

(a) assess the needs for credit for the primary industries of Australia;

(b) provide credit upon terms defined herein and otherwise as the Board determines, expressly for:

(i) family farmers, and other family producers of primary products, who directly contribute to increasing the potential population-density of Australia;

(ii) relief from the effects of catastrophe;

(iii) price support mechanisms and marketing structures, provided that not more than five per cent of the voting stock or equity of any such mechanism or structure, is held or controlled by any one individual organisation or group;

(c) after assessing the needs for credit for the primary industries of Australia, for the ensuing twelve months, prepare for approval of the Board, a parliamentary bill in terms described in the Regulations for a Primary Industries National Credit Issue Act;

(d) upon approval by the Board, and by no later than 31st May each year, cause the Treasurer to introduce into the Parliament the bill to authorise creation of the required credit;

(e) use the Proclamation of the bill, as amended by Parliament, as the authority for the national credit issue.

(2) Such bill shall be subject to normal constitutional procedures and requirements as a law appropriating monies.

(3) Nothing herein shall prevent the submission and enactment of more than one bill each year for a national credit issue through this Division of the Bank.

(4) Under authority of the Primary Industries National Credit Issue Act, the Bank shall credit an account designated the "Primary Industries National Credit Issue Account", the total amount authorised by the Act. From such account, the Bank shall pay to the credit of a "Primary Industries National Credit Issue Drawings Account" with the Chartered Banks or branches of the Bank nominated by the prospective recipients, such monies, in tranches, to cover the monthly approved credit advances to all such recipients nominating each such Chartered Bank or branch of the Bank.

(5) The Chartered Banks and branches of the Bank, shall effect transfers from their respective drawings accounts to the credit of the borrowers' accounts, after completion of all security arrangements detailed in

Sub-sections (6) and (7), and after approval by the Chartered Bank or branch of the Bank, of the invoices for work carried out, and for goods and property purchased in connection with each project funded wholly, or in part, by the national credit issue.

(6) The Bank or Chartered Bank shall, in every instance, take a security charge over the asset created or enhanced, constructed or purchased, whether plant, machines, unsold produce, land, and the like, related to the purpose for which the credit is authorised.

(7) The Chartered Banks' liability to the Bank in respect of national credit issues under this Division shall be secured by a floating or specific charge, and discharged upon repayment of the amount of the original credit and all other appertaining charges.

(8) Interest, and all other charges payable by the primary industry borrower, shall not exceed five per cent per annum, based on the outstanding balance of any loan, whether wholly or in part comprising a national credit issue, and whether arranged with a Chartered Bank, or a branch of the Bank.

Manufacturing Division

39. The Manufacturing Division is responsible for assessing the Nation's need for credit to provide for the costs of land, buildings, plant, machinery, other tangible items, and working capital for the manufacturing industry.

A further responsibility of this Division shall be to provide credit upon such terms as specified in the relevant "Manufacturing Industries National Credit Issue Act", and, at an interest rate to Chartered Banks for reloaning to manufacturers of not more than two per cent and subject to Sub-section (8) of Section 39, at an interest rate for loans directly to manufacturers, of not more than five per cent.

(1) The Manufacturing Division shall:

(a) assess the needs for credit for the manufacturing industries of Australia;

(b) provide credit upon terms defined herein, and otherwise, as the Board determines, expressly for:

(i) manufacturers producing goods which directly contribute to increasing the potential population-density of Australia;

(ii) relief from the effects of catastrophe;

(c) after assessing the needs for credit for the ensuing twelve months, prepare, for the approval of the Board, a parliamentary bill in the terms described in the Regulations for a Manufacturing Industries National Credit Issue Act;

(d) upon approval by the Board, and by no later than 31st May each year, cause the Treasurer to introduce into the Parliament, the bill to authorise creation of the required credit;

(e) use the Proclamation of the bill as amended by Parliament, as the authority for a national credit issue.

(2) Such bill shall be subject to normal constitutional procedures and requirements, as a law appropriating monies.

(3) Nothing herein, shall prevent the submission and enactment of more than one bill each year for a national credit issue through this Division of the Bank.

(4) Under authority of the Manufacturing Industries National Credit Issue Act, the Bank shall credit an account designated the "Manufacturing Industries National Credit Issue Account" the total amount authorised by the Act. From such account the Bank shall pay to the credit of a "Manufacturing Industries National Credit Issue Drawings Account" with the Chartered Banks or branches of the Bank nominated by the respective recipients, such monies, in tranches, to cover the monthly approved credit advances to all such recipients nominating each such Chartered Bank or branch of the Bank.

(5) The Chartered Banks and branches of the Bank shall effect transfers from their respective drawings accounts, to the credit of the borrowers' account, after completion of all security arrangements detailed in Sub-sections (6) and (7) and after approval by the Chartered Bank or branch of the Bank, of the invoices for work carried out, or goods and property purchased, in connection with each project funded wholly, or in part, by the national credit issue.

(6) The Bank or Chartered Bank, shall in every instance, take a security charge over the asset created, enhanced, constructed, or purchased, whether plant, machines, unsold products, land, and the like, related to the purpose for which the credit is authorised.

(7) The Chartered Bank's liability to the Bank in respect of national credit issues under this Division, shall be secured by a floating or specific charge, and discharged upon repayment of the amount of the original credit and all other appertaining charges.

(8) Interest, and all other charges payable by the manufacturing industry borrower, shall not exceed five per cent per annum, based on the outstanding balance of any loan whether wholly, or in part, comprising a national credit issue, and whether arranged with a Chartered Bank, or a branch of the Bank.

International Division

40. The International Division is responsible for administration of exchange control, and provisions of this Act relating to gold, and if, and when required, the exchange and clearance of financial instruments and other international matters.

(1) The International Division shall:

(a) administer the exchange control provisions of this Act;

(b) administer the provisions of this Act relating to gold;

(c) administer any consolidating legislation which requires the Bank to regulate the clearance, settlement or transfer of financial instruments;

(d) deal with any matter or issue relating to international affairs within the powers of the

Bank, including provision of information to, and cooperation with, the Commission, established in accordance with the provisions of the Foreign Debt Moratorium Act* .

(2) This Division shall impose restrictions and controls on, and regulate and monitor, and if necessary, prohibit transactions involving any foreign exchange, or the dealing in Australian currency or Australian financial instruments by non-residents of the Commonwealth. Such transactions may involve but are not limited to:

(a) rates of exchange;

(b) the buying, borrowing, selling, lending, exchanging, or that which has the effect of such, or any other dealing or transaction that relates to Australian currency, or Australian financial instruments whether within, or outside the Commonwealth, by a non-resident of the Commonwealth;

(c) the taking or sending out of the Commonwealth, and the bringing or sending into the Commonwealth, of Australian or foreign currency, or Australian or foreign financial instruments, including the transfer of such instruments from a register outside the Commonwealth to a register within the Commonwealth or vice versa and also the transfer of Australian financial instruments between registers outside the Commonwealth;

(d) the buying, borrowing, selling, lending, exchanging, or that which has the effect of such, or any other dealing or transaction that relates to foreign currency, or foreign financial instruments;

(e) the making of markets in Australian financial instruments or foreign financial instruments within or partly within the Commonwealth by a non-resident of the Commonwealth;

(f) any transaction that has the effect of, or that otherwise relates to, the buying, selling, leasing, or exchanging of, or other dealing with property, that is outside Australia, by or on behalf of a resident of the Commonwealth or the buying, selling, leasing, or exchanging of, or other dealing with property within the Commonwealth by a non-resident:

(3) This Division shall be responsible for administering the following provisions regarding gold within the Commonwealth:

(a) a person shall not take, or send any gold out of the Commonwealth, unless prior consent, in writing, of this Division, be first obtained. Such consent shall only be granted in exceptional circumstances, or in the event of national emergency. The Bank shall lay before the Parliament, a copy of any consent so granted, and the reasons therefore;

(b) this Division shall be a permanent buyer for all gold produced and traded in the Commonwealth and the price to be paid shall be, subject to Sub-clause (g), not less than that published by the Bank in the Gazette;

(c) this Division may purchase foreign gold as it determines necessary;

(d) any person who owns gold, not in gold coins, the total value of which exceeds $100,000 where such gold is not used in connection with the purpose of the person's lawful profession or trade, shall deliver the gold to the Bank within one month of coming into possession of such gold;

(e) where a person lawfully in possession of gold for his profession or trade, ceases that profession or trade he shall deliver all such gold subject to Subclause (d) to the Bank within one month of his ceasing that profession or trade;

(f) all gold delivered in pursuance of this section shall thereupon vest in this Division, absolutely free from any mortgage, charge, lien, trust or other interest, in, or affecting the gold, and the Bank shall pay for the gold, to the person delivering the gold, on behalf of all persons having any interest in the gold, an amount determined in accordance with this section and this Division shall not be under any liability to any other person claiming any interest in the gold;

(g) the price to be paid for any gold delivered in pursuance of this section, shall be determined by this Division, and based on the estimate of this Division as to an equitable cost of production, plus a fair margin for profit;

(h) a person shall not sell, or otherwise dispose of gold, to a person other than this Division:

(i) a person may buy gold from this Division solely for the purpose of using it in his lawful profession or trade.

(4) This Division shall work to establish an international gold reserve system to support trade between all nations.

(5) No international treaty, protocol, covenant or the like, or memorandum signed with non-Australian bodies which relates to banking or economic matters, shall be valid or binding unless such document has first been approved by the Board, and ratified by Parliament.

(6) This Division may receive and deal in the notes, financial instruments, and specie of other nations, and has authority to maintain "Nostro" and "Vostro" accounts for its dealings with foreign banks and for the dealings of foreign banks with this Division of the Bank.

(7) This Division shall prepare for approval of the Board, a parliamentary bill in the terms described in the Regulations for a Gold Purchase National Credit Issue Act, for a national credit issue to pay for the costs of purchasing.

(8) Upon approval by the Board, this Division shall cause the Treasurer to introduce into the Parliament, the bill to authorise creation of the required credit, and the International Division shall use the Proclamation of the bill, as amended by Parliament, as the authority for a national credit issue.

(9) Such bill shall be subject to normal constitutional

procedures and requirements, as a law appropriating monies.

(10) This Division shall credit an account designated the "Gold Purchases National Credit Issue Account", with the total amount of each national credit issue, authorised by the Act. From such account it shall issue currency for the purchase of gold.

(11) Each financial institution shall, within 30 days of the Proclamation of this Act, notify this Division of all foreign currency in its possession or under its control. Such foreign currency shall not be used except with prior written permission of this Division and as specified in the Regulations.

(12) This Division shall have power to reverse any transaction undertaken up to twelve calendar months prior to this Act coming into force, by any financial institution, where it appears that the purpose or consequence of such transaction was other than the financing of lawful trade in physical goods, or which otherwise would be inconsistent with the provisions of this Act, if it were at the time of such transaction, enacted as a law of the Commonwealth.

PART VI—COMMONWEALTH NATIONAL CREDIT BANK SERVICE

Appointment of Officers

41. (1) The Bank may appoint such officers as are necessary for the purposes of this Act.

(2) The officers appointed under this Part shall constitute the Commonwealth National Credit Bank Service.

(3) Subject to this Part, and to the Regulations, officers hold office on such terms as the Bank determines.

Requirements for Appointment

42. A person shall not be appointed under this Act to the Commonwealth National Credit Bank Service, unless:

(1) he or she is an Australian citizen;

(2) he or she makes and subscribes before a Justice of the Peace or a Commissioner for taking Affidavits, an oath or affirmation of allegiance, in accordance with the form described in the Regulations:

(3) the Bank is satisfied as to his or her health and physical fitness for the work involved.

Regulations for Bank Service

43. The regulations may make provision in relation to the Commonwealth National Credit Bank Service, and in particular, may prescribe terms and conditions of employment of officers.

Superannuation Fund

44. (1) There shall be a Superannuation Fund of the Bank.

(2) The Bank may, with the approval of the Minister for Finance, make rules not inconsistent with this Act or the Regulations, for, or in relation to the Superannuation Fund.

Borrowing by Members of the Board and Officers

45. (1) In respect to any member of the Board, or officer, or employee of the Bank, the Bank shall not:

(a) lend money; or

(b) provide guarantees relating to the payment of money, provided that any loans or guarantees to which this section applies, were issued prior to Proclamation of this Act. Such loans or guarantees shall be permitted to continue for a period not exceeding ninety days from the date of Proclamation of this Act.

Indemnity of Personnel

46. The Chief Executive and Deputy Chief Executive, and other members of the Board, and other persons employed by the Bank, shall be indemnified by the Bank in respect of any liability, loss, claim, or proceeding incurred, or made by any person, whilst such officer, members, or other persons employed by the Bank, are acting within the scope of their duties.

PART VII—MISCELLANEOUS

Head Office

47. (1) The location of the Head Office of the Bank shall be determined by the Board.

(2) The Head Office of the Bank shall not be in the same building as any other bank or person.

Branch Offices of the Bank

48. In the exercise of its powers and the performance of its functions, the Bank may establish branch offices at such places, whether within or beyond Australia, as the Board determines.

Agents

49. (1) In the exercise of its powers and the performance of its functions, the Bank shall not:

(a) arrange with any person to act as agent of the Bank whether within or beyond Australia; or

(b) act as the agent of a bank carrying on business within or beyond Australia.

Guarantee by the Commonwealth

50. The Commonwealth is responsible for the payment of all monies due by the Bank, but nothing in this section authorises a creditor or other person claiming against the Bank to sue the Commonwealth in respect of his or her claim.

Taxation

51. The Bank is not liable to taxation under any law of a State or of a Territory to which the Commonwealth is not subject, and the income of the Bank is not liable to income tax under any law of the Commonwealth.

Audit and Public Accountability

52. (1) Within the bounds of sound and ethical commercial practice, all activities of the Bank shall be made public.

(2) The Bank shall not be exempt under the Freedom of Information Act.

(3) Within thirty days of the close of each calendar month, a statement of the accounts and activities of the Bank shall be made to Parliament, and all records shall be audited quarterly. Such statement is to be available to the public at the cost of printing and postage.

(4) All records relating to Australia and the International Monetary Fund, Bank for International Settlements and World Bank, are to be a matter of public record after expiration of one year.

Annual Reports and Financial Statements

53. (1) The Board shall, as soon as practicable after each 30th June, and in the terms detailed in the Regulations, prepare and submit to the Parliament:

(a) a report on the operations of the Bank during the year ending on that day;

(b) a report on the operations of the financial institutions during the year ending on that day; and

(c) a report on the economic state of the nation.

Power to Improve Property and Carry on Business

54. Where the Bank holds any property, (whether real or personal), or business (including a bank), as security for a loan or advance, and the property or business passes to the Bank due to failure or default of the owner under the terms or conditions of the loan or advance, the Bank may maintain, repair or improve the property, or carry on the business, until the Bank can, in its discretion, dispose of the property or business, in the best interests of the Bank.

Priority of Debts Due By Other Banks

55. Notwithstanding anything contained in any law relating to the winding up of companies, debts due to the Bank by any financial institution shall, in winding up, have priority over all other debts other than debts due to the Commonwealth and the depositors of the financial institutions.

Regulations

56. (1) The Board may make Regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, for carrying out, or giving effect to this Act, or for the conduct of business by the Bank, and in particular, prescribing penalties for offences against the Regulations, not exceeding a fine of $100,000 and confiscation of all benefits derived from such violation.

(2) The Regulations shall apply both within and without Australia.

Penalties

57. (1) A person who contravenes a provision of this Act specified in column 1 of the table at the end of this section:

(a) if the contravention continues beyond the end of the day on which it commenced—is guilty of an offence in respect of each day during the whole or part of which the contravention continues (including the day of conviction for any such offence or any later day); or

(b) in any other case of contravention, is guilty of an offence.

(2) An offence in relation to a provision of this Act specified in column 1 of the table is punishable, on conviction, as follows:

(a) if the letter A is specified in column 2 opposite to the reference to the provision in column 1:

(i) if the offender is a natural person—by a fine not exceeding $20,000, and in default, to jail for a term not exceeding one year;

(ii) if the offender is a body corporate—by a fine not exceeding $50,000;

(b) if the letter B is specified in column 2 of the table opposite to the reference to the provision in column 1:

(i) if the offender is a natural person—by a fine not exceeding $100,000, and in default, to jail for a term not exceeding two years;

(ii) if the offender is a body corporate—by a fine not exceeding $250,000;

(c) if the letter C is specified in column 2 of the table opposite to the reference to the provision in column 1:

(i) if the offender is a natural person—by a fine not exceeding $250,000 and in default, to jail for a term not exceeding ten years;

(ii) if the offender is a body corporate—by a fine not exceeding $1,000,000.

(3) Every director, officer or agent of a company which directed, authorised, assented to, acquiesced or participated in the commission of an offence by the company is guilty of an offence and liable on conviction to a penalty for each offence as a natural person as detailed in Sub-section (2).

(4) Nothing in this section is intended to imply that Section 4K of the Crimes Act 1914 does not apply to offences against this Act or the Regulations.

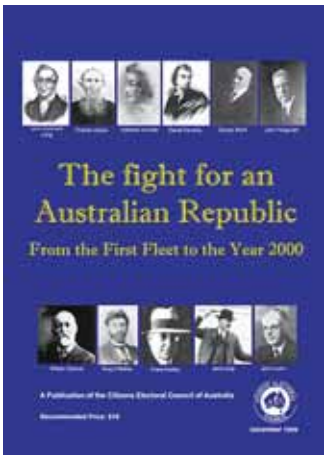
Table of Offences

Item	Column 1	Column 2 penalty level
1.	Section 12	A
2.	Section 16	A
3.	Section 17	A
4.	Section 23	B
5.	Section 26(1)(b)	B
6.	Section 26(2)	B
7.	Sub-section 27(4)	C
8.	Sub-section 33(4)	B
9.	Sub-section 33(10)	B
10.	Sub-section 33(12)	C
11.	Sub-section 33(14)	B
12.	Sub-section 40(2)	C
13.	Sub-section 40(3)	C
14.	Sub-section 40(5)	C
15.	Sub-section 40(10)	B
16.	Sub-section 40(11)	C
17.	Sub-section 42(1)	A
18.	Sub-section 42(2)	A
19.	Sub-section 45(1)	A
20.	Any Other Provision	A

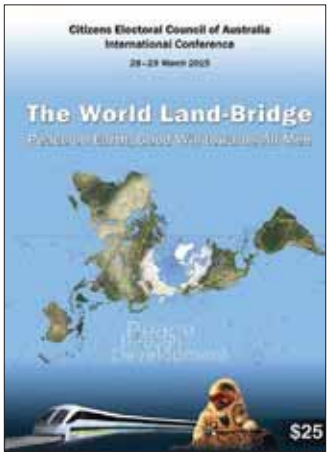
CEC Publications for Further Reading

For Part 1—National Banking

www.cecaust.com.au/NC_05_06.html (2006)

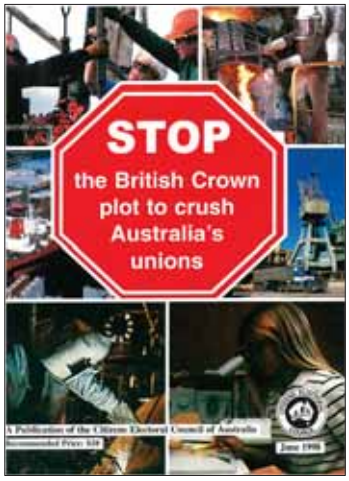


www.cecaust.com.au/history/republic.pdf
(1999 pamphlet)



www.cecaust.com.au/world-land-bridge.html
(2015 conference proceedings)

For Part 2—Fraud and Crimes of the Banks



www.cecaust.com.au/StopCrownPlot
(1998 pamphlet)

www.cecaust.com.au/NC_05_05.html (2004)

www. cecaust.com.au/NC_07_06.html (2011)

www.cecaust.com.au/NC_07_10.html (2013)

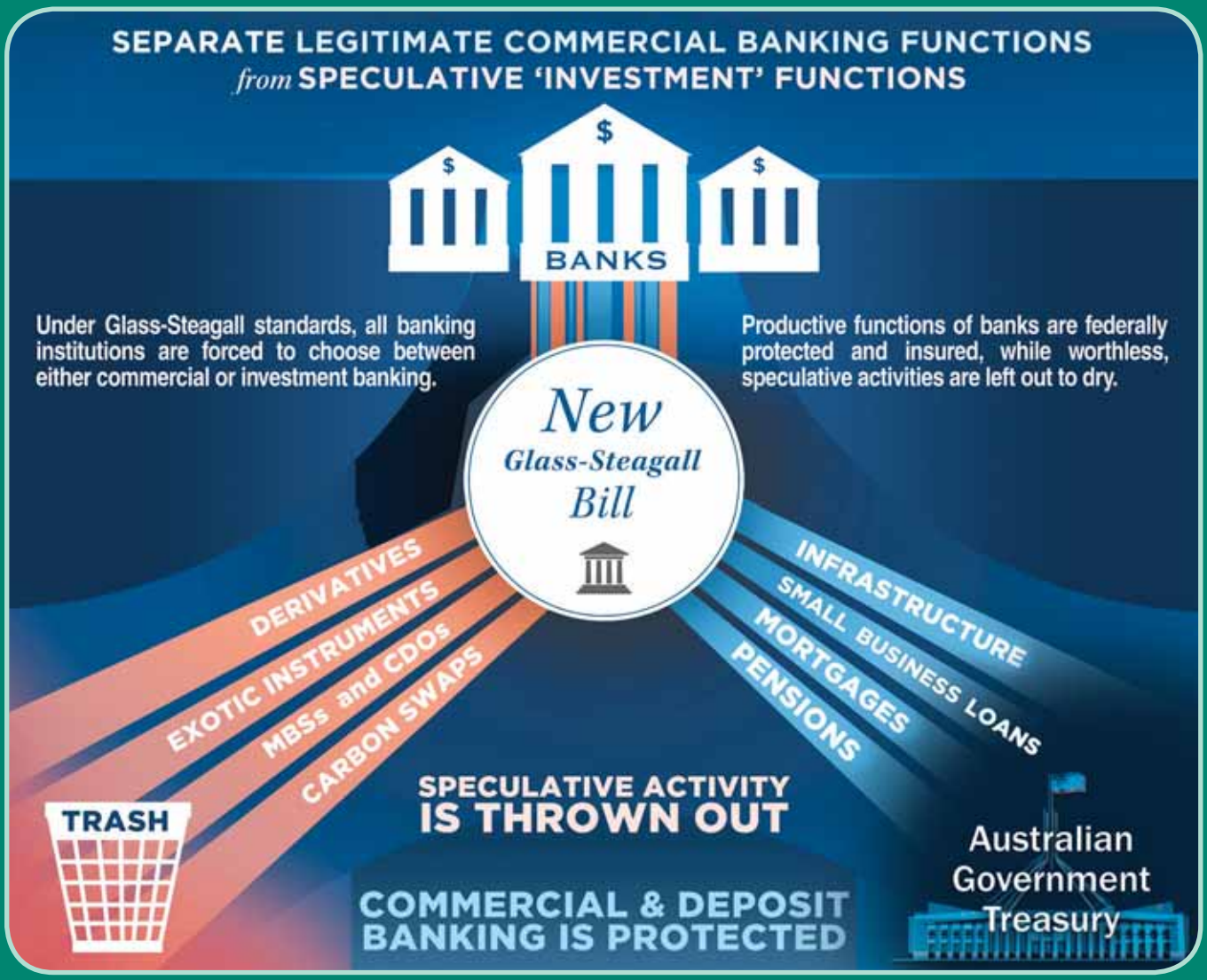
www.cecaust.com.au/NC_08_04.pdf (2016)

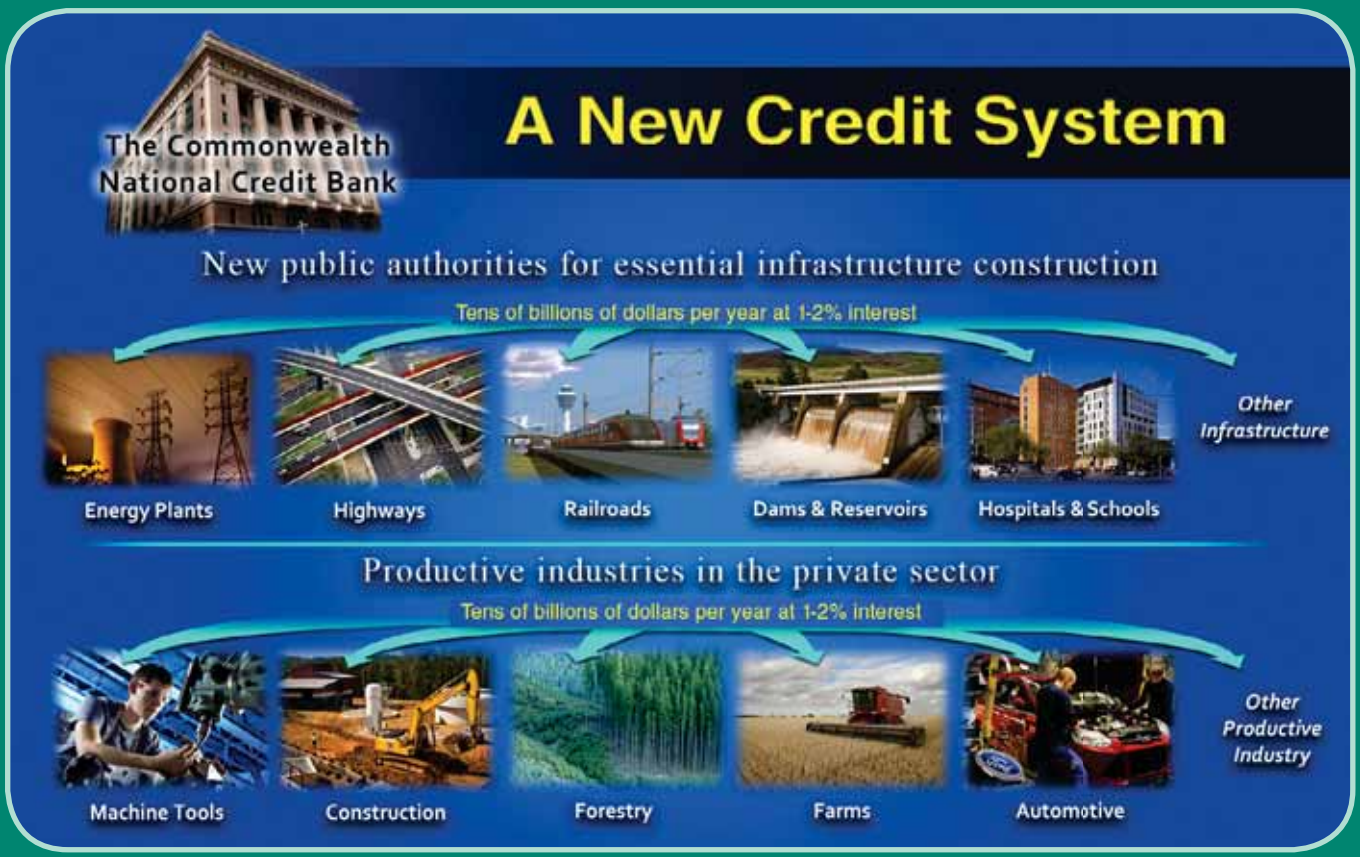
For Part 3—Glass-Steagall Banking Separation

www.cecaust.com.au/glass-steagall-mag.html
(2014 magazine)

www.cecaust.com.au/BSRB2018.pdf
(2018 flyer)

To check availability and order printed copies, contact the CEC: 1 800 636 432


SEPARATE LEGITIMATE COMMERCIAL BANKING FUNCTIONS
from SPECULATIVE 'INVESTMENT' FUNCTIONS
BANKS
Under Glass-Steagall standards, all banking institutions are forced to choose between either commercial or investment banking.
Productive functions of banks are federally protected and insured, while worthless, speculative activities are left out to dry.
New Glass-Steagall Bill
DERIVATIVES
EXOTIC INSTRUMENTS
MBSs and CDOs
CARBON SWAPS
INFRASTRUCTURE
SMALL BUSINESS LOANS
MORTGAGES
PENSIONS
TRASH
SPECULATIVE ACTIVITY IS THROWN OUT
COMMERCIAL & DEPOSIT BANKING IS PROTECTED
Australian Government Treasury


The Commonwealth National Credit Bank
A New Credit System
New public authorities for essential infrastructure construction
Tens of billions of dollars per year at 1-2% interest
Energy Plants
Highways
Railroads
Dams & Reservoirs
Hospitals & Schools
Other Infrastructure
Productive industries in the private sector
Tens of billions of dollars per year at 1-2% interest
Machine Tools
Construction
Forestry
Farms
Automotive
Other Productive Industry