



Australian Citizens Party

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MEDIA RELEASE

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Jacinda Ardern flees public ‘bail-in’ debate (Scott Morrison just lies)

NZ’s Ardern government has dropped a planned bail-in law, to avoid a backlash from an angry public who won’t want their deposits stolen; Kiwis and Aussies should demand their governments jettison all bail-in powers.

New Zealand’s Ardern government has confirmed a political truth: no government can enact “bail-in” laws, which give authorities the power to confiscate bank customers’ savings deposits to prop up failing banks in a financial crisis, in full public view. In April 2021 the NZ Cabinet announced it would enact so-called “statutory” bail-in, meaning legislation that lays out exactly how a bail-in would work, in accordance with International Monetary Fund (IMF) requirements. The statutory bail-in powers were to be included in NZ’s landmark [Deposit Takers Act](#), in consultation phase until 21 February, which would overhaul regulation for deposit-taking financial institutions, and include a deposit insurance scheme for the first time, guaranteeing NZ\$100,000 per account. However, in October, the [Cabinet quietly dropped the statutory bail-in provisions](#), fearing its legislative reform may fail to pass if it had to engage in a public debate about why citizens should be happy to lose their savings to save banks.

NZ already has bail-in powers, but these are directions powers of the Reserve Bank of New Zealand (RBNZ), called Open Bank Resolution (OBR). RBNZ is remarkably transparent about how OBR will be used to freeze and confiscate deposits—in fact, OBR is the most transparent bail-in scheme in the world, with a [large colour graphic on RBNZ’s website](#) explaining how it would work—but in a way that only finance geeks would be aware of. When RBNZ devised its bail-in powers in the mid-2000s, nobody in NZ’s general public noticed.

Bail-in is [a global banking regulation policy](#) developed by the Financial Stability Board (FSB) of the Bank for International Settlements (BIS) in Switzerland after the 2008 global financial crisis. Instead of demanding the banks end the reckless gambling in toxic derivatives that caused the GFC, by reintroducing Glass-Steagall powers to separate banks with deposits from speculative investment banking, the ex-investment bankers at the FSB decided to put unsuspecting bank depositors on the hook for bank losses. The FSB directed all nations to comply with its bail-in policy, called Key Attributes of Effective Resolution Regimes.

RBNZ’s OBR was actually ahead of the curve, so RBNZ replied to the FSB that its existing powers already complied (later the IMF said all countries should enact statutory bail-in powers). Other countries enacted bail-in powers, including the [USA, UK and EU, and Canada](#), but they all had one thing in common: nobody knew about it—there was no public debate! Only two countries had public debates about bail-in *before* legislation was enacted, India and Australia, and both in 2017. When India announced bail-in legislation in 2017, the public backlash was so severe [the government quickly dropped it](#). In Australia, the [Citizens Party had led a massive campaign](#) to expose and oppose bail-in since 2013, when the bail-in of bank deposits in Cyprus banks had first revealed the policy to the world, so in 2017 then-Treasurer Scott Morrison had to sneak it through.

Late on a Friday afternoon in August 2017, so nobody would notice, Morrison’s Treasury released an exposure draft of a vaguely-titled bill, the Financial Sector Legislation Amendment (Crisis Resolution Powers and Other Measures) Bill 2017. The Citizens Party noticed, however, and detected in the bill a broadly-worded provision creating a loophole that could be used to bail in deposits in a crisis. The Citizens Party’s intense mobilisation against the bill, which coincided with the uproar over the banks that forced Malcolm Turnbull to call the banking royal commission, led to an inquiry chaired by “Senator for bankers” Jane Hume, which denied the law could be used to bail in deposits. But when One Nation Senators informed the Leader of the Government in the Senate, Mathias Cormann, on the eve of the Senate debate on the bill, that they intended to move an amendment to close the loophole, the government pulled a dirty trick. Cormann offered to have Treasury lawyers proof-read One Nation’s amendment, and the next day, while the One Nation Senators were waiting to hear back from Treasury, the government and Labor Party [snuck the bill through the Senate with only eight Senators present in the chamber](#) and with only a vote “on the voices”, not a formal division that would require all Senators to be present to vote.

Ever since that fateful day of 14 February 2018—the St. Valentine’s Day massacre of Australians’ savings—[the government has continued to deny](#) its law could be used to steal deposits. Moreover, in a

2020 Senate inquiry on a bill by [One Nation Senator Malcolm Roberts to amend the 2018 law](#) to again close the loophole to exclude deposits, the government doubled down on its denial, by claiming that bailing in deposits would be unthinkable, because it would badly destabilise the banking system. Yet the Australian government has never commented on the fact that many other jurisdictions do have deposit bail-in powers, including NZ—the nation closest to Australia with the most similar financial system, as NZ's major banks are owned by Australia's Big Four banks. It hasn't commented on these other jurisdictions, because its denials aren't genuine; it's desperately trying to suppress a public backlash.

Now that the NZ government has fled a public bail-in debate, Aussies and Kiwis need to realise their political power, and demand their governments drop all bail-in powers completely. Kiwis should start a campaign to force Arden to make RBNZ abandon Open Bank Resolution; Aussies should demand the government pass [Senator Roberts' amendment](#) to close up the deposit loophole in the 2018 law. (Treasurer Josh Frydenberg promised to negotiate a resolution with Roberts, but has dragged his feet.)

With inflation rearing its ugly head, putting upward pressure on interest rates that would smash borrowers and put the banks that are over-exposed to the housing bubble at risk of failing, it is urgent that bail-in be dropped—now!

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