

**SUBMISSION ON POLICY ISSUES IDENTIFIED IN THE INTERIM REPORT**

Submitted By: Richard Bardon

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Submission for: My Self

Name of other person, business or organisation:

Do you agree to your submission being published: Yes

Do you agree to your full name being published: Yes

Your submission:

Dear Commissioner Hayne,

Please allow me to open by thanking you and your staff for the invaluable work you have done thus far. Following are responses to a few of the questions raised in your Interim Report.

Taking the last first, you asked: "Is structural change in the industry necessary?"

I submit that the answer is a resounding "Yes", and moreover that industry structure is the wellspring from which flow virtually all of the issues your inquiry has brought to light. The conflicts of interest inherent in the so-called vertically integrated banking/financial model pose an unacceptable and unmanageable moral hazard, which can only be removed by a complete structural separation of banking from other financial activities.

This leads to the question, "Should the financial services law be simplified?", the answer to which is also "Yes". The myriad regulations supposed to govern the behaviour of vertically integrated financial institutions are too complicated to enforce, the more so as enforcement is divided between no fewer than four separate agencies—the Australian Prudential Regulation Authority (APRA); Australian Securities and Investments Commission (ASIC); Australian Transaction Reports and Analysis Centre (AUSTRAC); and Australian Competition and Consumer Commission (ACCC)—each with its own bailiwick and mandate, the latter of which often seem to conflict with one another. Indeed, a disinterested observer might well conclude that a system in which integrated financial institutions are policed by a *dis*-integrated regulatory regime may as well have been designed to create the conditions for the banks to behave as they have.

That aside, the answer to your questions (in Ch. 10, section 8.1.4) as to whether ASIC's and APRA's responses to misconduct have been appropriate: absolutely not. Inadequate as the current regulations and penalties may be, ASIC and in particular APRA have never bothered to enforce them. As I stated in my Round 5 submission (ref. no.

POL.0001.0001.0318), [REDACTED] officials including [REDACTED] makes it obvious that the decision-makers at [REDACTED] have at best failed utterly in their duty to police financial institutions' behaviour—and at worst, are (as I believe to be the case) criminally complicit in their misdeeds. [REDACTED] apparently considers its mandate to preserve financial stability—in service of which the *Financial Sector Legislation Amendment (Crisis Resolution Powers and Other Measures) Act 2018* makes all financial instruments, including customer deposits, susceptible to conversion into bank shares (a.k.a. "bail-in")—as synonymous with preserving the size, power and profits of the major banks, regardless of the crimes they commit along the way, while the other regulators seem afraid to prosecute them lest doing so destabilises the financial system.

As I noted in my previous submission, legislation has been proposed that would address all of the abovementioned issues: the Banking System Reform (Separation of Banks) Bill 2018, which Bob Katter MP introduced in Parliament on 25 June 2018, and which I once again commend to your attention. Banks would be structurally separated from other financial activities per the prescriptions of the USA's *Banking Act of 1933* ("Glass-Steagall"), to which you referred in your Interim Report—not "directly imported and applied here", but adapted to Australian conditions. APRA would be brought under the supervision of a special committee of Parliament, thus making its actions transparent to the Australian public, instead of hidden behind its overused secrecy provisions. The other regulatory/enforcement agencies would thereafter find their tasks much simpler, and prosecution for wrongdoing could proceed without the risk of "contagion" sparking systemic instability, as is the case in the current vertically integrated system.

Sincerely,

Richard Bardon, Melbourne, VIC