Submission to the Haines Royal Commission into banking

The bank functions should be broken up so that they are no longer vertically integrated.

The banks have conflict of interest where investment functions - financial advice, wealth management, insurance, superannuation and stockbroking - can conflict with their primary function of taking deposits and lending for housing and business. To protect the public the banks need to be restricted to their primary function. Hence they need to be broken up and other secondary vertically integrated money-making functions removed from primary function of taking deposits and lending money for housing and business.

APRA has conflict of interest and can't be relied on to protect the interests of the banks and the public. It can come down to an either / or situation. The functions of the banks need to be broken up to protect the public.

Good that we have CEC looking into all this financial shanigans. They have a better insight into the information than anybody I know of with years of research behind their articles. My appendices form part of response to my submission and are included below for information.

Appendix 1 - Tell Commissioner Hayne: break up the banks!
Appendix 2 - Top reasons the Banking Royal Commission must investigate APRA

Tell Commissioner Hayne: break up the banks!

CEC Australian Alert Service - 3 October 2018Vol. 20 No. 4 - p.3

2 Oct.—On 28 September Commissioner Kenneth Hayne released his eagerly anticipated interim report of the first four
rounds of hearings of the Financial Services Royal Commission. The interim report does not make recommendations, but poses questions based on its findings on consumer lending, financial advice, small business lending, agricultural lending, remote communities, and regulation and the regulators. The Commissioner seeks submissions on those questions.
While most of the questions relate to specific details of the banking practices examined in the hearings, Commissioner Hayne has also taken a step back to look at the banking system as a whole. In his executive summary, Hayne poses the question:
“What can be done to prevent the conduct happening again?”

The number one answer to that question is break up the banks! Virtually all of the misconduct examined by the royal commission stems from the banks being too-big-to-fail conglomerates of multiple financial services businesses.
If commercial banks were separated from investment banking, they wouldn’t be able to do the trading in securities and derivatives on mortgages which made them lower their lending standards and even commit fraud so they could increase their mortgage lending. Without the incentives to concentrate most of their lending into speculating on the housing bubble, they would have more interest in lending to, and looking after, their small business

and farm customers.

If commercial banks were not “vertically integrated” with wealth management, stock broking, insurance and superannuation, they wouldn’t be able to fleece customers with financial advice that lures them into buying products and investments from the other businesses that the banks own. If the banks were broken up, and commercial banks were only allowed to take deposits and make loans, and kept separated from other financial services and speculation, the financial system would be much simpler, and therefore the regulators would be better able to do their job. The banks would not be too big to fail, so APRA would not be able to use “financial stability” as the excuse for allowing the banks to get away with financial murder.
Commissioner Hayne is aware of the precedents for structural separation. In Chapter 9, Section 6.7 “Business structures” on page 323 of Volume 1 of his interim report, he wrote:

> “In considering these issues it is important to recognise that legislative regulation of the structure of the banking industry is not unknown. From time to time, overseas jurisdictions have limited not only the kinds of transaction, but also the affiliations with other firms, that banks may have.
> The United States Banking Act of 1933 (usually called the ‘Glass-Steagall Act’) sought to separate commercial and investment banking . In 2013, the UK enacted the Financial Services (Banking Reform) Act 2013 requiring banks to ‘ringfence’ certain ‘core activities’ by 2019. These references are not to be misunderstood. They are not to be read as my suggesting that either of these laws could be, or should be, directly imported and applied here. But the point of immediate relevance is that structural regulation of banking activities is not novel .” (Emphasis added.)

Despite his caveat, these words would be making the banks very nervous.
Commissioner Hayne’s questions
Following are questions that Commissioner Hayne poses at the end of his interim report, on which he is seeking
submissions, and the CEC’s answers to those questions:

Commissioner Hayne:
As indicated in Chapter 8, I begin from the premise that no new layer of law or regulation should be added unless there is clearly identified advantage to be gained by doing that. And I begin from the further premise that very simple ideas must inform the conduct of financial services entities.
Hence, the first question to be asked and answered is:
• Is the law governing financial services entities and their conduct too complicated?
- Does it impede effective conduct risk management?
- Does it impede effective regulatory enforcement?
...
• Is the regulatory regime too complex? Should there be radical simplification of the regulatory regime?

CEC: Yes to all of the above. As former APRA Principal Researcher and Glass-Steagall bank separation advocate Dr
Wilson Sy said in an interview for the 29 June episode of the CEC Report, "I think the financial system is too complex for the regulators ... I think we need a much simpler system."

Commissioner Hayne:
• Are APRA's regulatory practices satisfactory? If not, how should they be changed?
• Are APRA's enforcement practices satisfactory? If not, how should they be changed?
• Does the conduct identified and criticised in this report call for reconsideration of APRA's prudential standards on governance?

CEC: No, APRA's behaviour is not satisfactory. Using the excuse of financial stability it has allowed the banks to engage
in practices that maximise their profits, but at the expense of their customers. Ultimately this has become a threat to fi
nancial stability, because in seeking to increase their profits from mortgages the banks have inflated a massive housing
bubble and incurred a $40 trillion exposure to dangerous derivatives, all of which is a threat to the financial system.

Commissioner Hayne:
7.5 Business structures
• Do the events that have happened raise any issue about business structures?
• Do the events that have happened invite consideration of whether structural changes should now be made?
• Do the events that have happened suggest that manufacturers of financial products should not be permitted to provide, whether by employee or authorised representative, personal financial advice in relation to products of a kind it manufactures?

CEC: Yes, the banks' structure, a.k.a. vertical integration, created the conflicts of interest between serving their customers, and exploiting their customers to maximise profits for shareholders. The banks cannot be trusted to "manage" these conflicts of interest, and relying on more rigorous law enforcement is unrealistic. The conflicts of interest must be removed, by separating commercial banks from all other businesses.

Commissioner Hayne:
What responses should be made to the conduct identified and criticised in this report?
• Are changes in law necessary?
- Should the financial services law be simplified?
...
• Should the regulatory architecture change?
...
• Is structural change in the industry necessary?

CEC: Yes, yes, yes, and yes. The solution is in legislation that is already before

Parliament, the Banking System Reform (Separation of Banks) Bill 2018, introduced by the Member for Kennedy Bob Katter on 25 June. It will enact a Glass-Steagall separation of commercial banks from investment banking and all other financial business, and bring APRA under much tighter Parliamentary control.

Top reasons the Banking Royal Commission must investigate APRA

CEC (Citizens Electoral Commission) - Australian Alert Service, 21 March 2018, Vol. 20 No. 12 - p.3

Top reasons the Banking Royal Commission must investigate APRA
20 Mar. — The terms of reference that Malcolm Turnbull gave to the Banking Royal Commission only allow it to examine specific failings of regulators in relation to banking misconduct. It is not allowed to examine "macro-prudential policy", which is the regulatory structure of the financial system, and the policies of the Australian Prudential Regulation Authority (APRA), the bank regulator.
Issued with the approval of the banks and regulators, Turnbull's terms of reference are clearly intended to hobble the Royal Commission and protect the banks. Here are the top reasons why Australians should demand that the Royal Commission be allowed to investigate APRA and the regulatory structure of the banking system.
1. APRA is the supervisor of the banks, and their atrocious abuses occurred under its supervision.
Numerous experts and bank victims who have interacted with APRA accuse it of protecting the banks, not policing them.
2. APRA is a major cause of the rampant mortgage control fraud which the Royal Commission is investigating. APRA manipulated its prudential standards—the rules banks must follow—to make mortgages far more profitable than other lending. This encouraged the banks to lure as many people as possible into mortgages, not just to buy homes to live in, but also to buy multiple investment properties and to invest in the stock market. Many of the borrowers couldn't afford these loans, so banks forged documents to overstate their incomes and understate their living expenses to justify the loans anyway. The Royal Commission is investigating this fraud, but the investigation is incomplete unless APRA's role is also examined.
3. APRA looked the other way as banks lowered lending standards and committed fraud. In 2007 APRA chairman John Laker suppressed an internal report which showed that lowered lending standards, approved by APRA a few years earlier, had resulted in a bubble of more than three times the amount of lending for mortgages than would have been the case under the previous, higher standards. The report warned the delinquency rate could rise to 7.5 per cent, and trigger a housing market crash that would plunge Australia into recession. Instead of acting on the report, APRA buried it, encouraged even more reckless mortgage lending that further expanded the housing bubble, and ignored the mounting evidence of mortgage control fraud. The suppressed internal APRA report was only revealed nine
years later in January 2016, by ABC reporter Stephen Long.
Current APRA chairman Wayne Byres said in 1 March 2018 testimony to the Senate Economics Legislation Committee

that APRA hasn't really examined mortgage fraud, and has found no evidence of illegal activity by banks.

4. APRA supervised the Commonwealth Bank as it committed numerous abuses and crimes, and is now attempting to cover up those crimes. The three-person panel APRA appointed last year to inquire into CBA's "culture", following allegations of large-scale drug- and terrorism-related money laundering, is headed up by longtime APRA chairman John Laker, on whose watch in 2003-14 CBA got away with a litany of crimes and abuses—i.e. Laker is effectively investigating himself. Current APRA chairman Wayne Byres admitted to a parliamentary committee hearing on 13 September 2017 that the purpose of APRA's inquiry was to help CBA restore community trust and its badly damaged "reputation", with no mention of holding CBA to account.

5. APRA abuses its extreme secrecy restrictions to suppress important information about its policies, and the banking system. APRA's secrecy restrictions are only in tended to protect the private account information of bank customers, but APRA has weaponised these restrictions to keep its employees ignorant about its activities outside of their own departments, and to keep information from the public, such as the 2007 report on the consequences of lowered lending standards, cited above.

6. While formally an Australian government authority, APRA actually operates as an agency for the supranational
financial regulation apparatus centred in the Bank for International Settlements (BIS) headquartered in Basel, Switzerland. Known as the "central bank of central banks", the BIS enforces a neoliberal ideology of financial self-regulation that constrains governments more than banks, and enabled the banks to rush headlong into the extreme financial speculation and derivatives gambling that snowballed into the global financial crisis in 2008. Current APRA chairman Wayne Byres was the chair of the Secretariat of the BIS's Basel Committee on Banking Supervision in 2012 when it issued its "Core Principles for Effective Banking Supervision", which demanded that there must be "no government or industry interference that compromises the operational independence of the supervisor", i.e. supervisors like APRA must be a law unto themselves.

7. APRA is covering up its "bail-in" agenda, which is to use the savings of Australians to prop up banks that fail
as a result of the reckless financial gambling that APRA allows them to engage in. In his 1 March Senate Estimates
testimony, Wayne Byres denied APRA has bail-in powers, yet APRA lobbied for the recent Financial Sector Legislation Amendment (Crisis Resolution Powers and Other Measures) Act 2018, which allows it to forcibly convert or write off bank hybrid securities, in which Australian mums and dads have invested $43 billion of savings, or "any other instruments", which is wording that is deliberately broad so as not to exclude bank deposits. This law is drawn from the BIS-based Financial Stability Board's "Key Attributes of Effective Resolution Regimes", which includes "bail-in" of "unsecured, uninsured creditors", meaning depositors.

Australian authorities started planning for bail-in powers as early as the 2010-11 financial year, when Treasury paid for legal advice on bail-in powers. In September 2012 Treasury issued a discussion paper on measures for "Strengthening APRA's Crisis Management Powers", which included bail-in; in November 2012 the IMF noted that Australia is "exploring bail-in options"; and in April 2013 the FSB reported that "bail-in ... legislation is

in train in some jurisdictions ... including Australia”— the crisis resolution powers law passed in February is the bail-in legislation to which the FSB referred.