Submission to Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry-Interim Report

Douglas Mitchell

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Dear Commissioner Hayne and Members of the Royal Commission,

I wish to submit to you some matters for consideration following your interim report. I wanted to bring to your attention some conduct that does not epitomise community standards and expectations. I will also answer the following questions "What can be done to prevent the conduct happening again?" &

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?

Conduct that does not epitomise community standards and expectations

This lies in the following law: Financial Sector Legislation Amendment (Crisis Resolution Powers and Other Measures) Act 2018
https://www.legislation.gov.au/Details/C2018A00010

This gives APRA the power to declare that consumer deposits can be written off or converted into shares of a failing bank. This is known as bail-in.

To quote my submission to the Senate Economics Legislation Committee inquiry into the Bill:

On Friday 18 August 2017, Treasurer Scott Morrison issued a press release: "Turnbull Government to strengthen APRA's Crisis Management Powers". I discovered the press release on my Twitter feed:

The timing of this release raised questions in my mind. On a Friday afternoon, while a lot of media attention was focused on the dual citizenship saga and Senator Hanson's burqa stunt in the Senate the previous night, and many Members of Parliament were flying home interstate after the Parliamentary session, the ***Financial Sector Legislation Amendment (Crisis Resolution Powers and Other Measures) Bill 2017*** was announced by Treasurer Morrison and it has profound implications for the Australian banking sector. It should have received a lot more serious attention from Members of Parliament (and the media) than it has thus far. [end quote]

I am an organiser with the Citizens Electoral Council (CEC). The CEC mobilised to stop this bill, and have been proven right with recent revelations by John Adams and Martin North: https://www.youtube.com/watch?v=NN2PI2lEBwY . These revelations show that the banks can change the terms and conditions of their savings/deposit accounts to comply with the bail-in provisions.

This law should be annulled, because if it is exercised, that is major misconduct by banks.

Answering "What can be done to prevent the conduct happening again?" and What responses should be made to the conduct identified and criticised in this report?

In Chapter 9, Section 6.7 "Business structures" on page 323 of Volume 1 of his interim report, Commissioner Hayne 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 'ring fence' 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."

We shouldn't *directly import* these laws, as the particulars apply to the US and UK banking system. However, the ***principle*** of the Glass-Steagall Act ***should be applied.*** Why? Because the CBA, NAB, ANZ and Westpac have been designated too big to fail – officially "domestically systemically important financial institutions" – and therefore do need to be legally separated so that commercial banking activity is separated from all the vertically integrated structures (insurance, mortgage broking, stockbroking, etc) as well as their derivatives activity. Misconduct has occurred because the Big 4 have become too big. Commercial banking should not be at risk of failure.

Former researcher from APRA, Dr Wilson Sy, has explained why Australia needs Glass-Steagall (http://cecaust.com.au/releases/2018_07_05_Why_GS.html) and has also replied to the Treasury on their position against it (http://cecaust.com.au/releases/2018_09_11_Former_APRA_Analyst.html). Dr Sy should be granted leave to appear as a witness to present to you his experiences and understanding of what needs to be done.

Fortunately, the CEC drafted legislation to apply the principle of Glass-Steagall for Australia. It was introduced into the House of Representatives on 25 June 2018 by the Hon Bob Katter MP.

Text: http://parlinfo.aph.gov.au/parlInfo/download/legislation/bills/r6136_first-reps/toc_pdf/18137b01.pdf;fileType=application%2Fpdf

Explanatory Memorandum: http://parlinfo.aph.gov.au/parlInfo/download/legislation/ems/r6136_ems_e0bd7474-4372-4cd0-85bd-5d29ee3c91d0/upload_pdf/18137EMKatter.pdf;fileType=application%2Fpdf

It puts APRA under supervision of a Parliamentary Committee and ensures that Authorised Deposit-Taking Institutions cannot also be involved in the sale of other financial activity.

The CEC has collected thousands of signatures of the Australian people calling on the Parliament to enact Glass-Steagall separation of our banks. This is the simplest law that should be recommended by the Royal Commission and it is the most profound law to be effected on Australia banking and financial system, the pathway to prevent misconduct occurring in the future.