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Independent Political Party

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Government sneaks through APRA 'bail-in' law, but fuels anti-bank revolt

16 Feb—Under siege from erupting public opposition, the Turnbull government whisked its APRA crisis resolution bill through the Senate and into law on 14 February. Of Australia's 76 senators, only seven were present when the government rushed the bill to a vote, which passed "on the voices", with no opposition from the Labor or Greens senators present. The process was hurried to ensure that senators who planned to move an amendment, to stipulate that the bill's "bail-in" provisions must not apply to bank deposits, did not have the chance, and weren't even present when it passed.

The passage of this bill was a live demonstration of the incredible power that banking interests wield over Australian politics. (Before it sold out to those banking interests and embraced neoliberal economics, the "old" Labor Party called them the "Money Power".) This bill is going to backfire on the Money Power, however. In their desperation for a law that confiscates people's savings to prop up too-big-to-fail (TBTF) banks, they have further fuelled the revolt in the population against banks and the political elites who serve them.

Dirty trick

The biggest scandal about the bill's rushed passage, is the dirty trick the government pulled at the last moment to ensure it couldn't be amended to explicitly protect deposits. A CEC delegation was in Parliament House this week meeting politicians from all parties, to expose the true nature of the bill. After having it explained to them, Pauline Hanson's One Nation party proposed an amendment to the bill to clarify that it wouldn't include deposits, which was the government's claim after all. In a meeting with the government on the morning of the Senate debate, One Nation notified government and Treasury representatives that they intended to move the amendment. The government offered to have their legal experts look at the wording of the amendment. However, it was while One Nation was waiting to hear back from the government's legal experts that the bill was rushed through without their knowledge. Not only did One Nation not get to move their amendment, no One Nation senator was yet present in the chamber!



The House of Representatives was just as empty as the Senate when it debated and passed the APRA bail-in bill without a proper vote on 12 February. Standing is ALP MP Jim Chalmers, expressing his "enthusiastic" support for the bill.

Delayed and exposed by CEC

At the time the APRA crisis resolution powers bill was announced by Treasurer Scott Morrison back in August 2017, late on a Friday afternoon to avoid publicity, the CEC knew that the government intended to sneak it through quickly. After a token consultation period in which 250 CEC supporters and contacts made submissions, Morrison introduced the bill on 19 October. It is now clear from how quickly it was rushed through this week that the bill would have been passed in late October or early November, except that the CEC's mobilisation prompted the Greens to refer it to the Senate Economics Legislation Committee. That inquiry was crucial, because it proved the level of intense public opposition to bail-in powers. The committee reported receiving more than 1,000 submissions from the public, but this was an understatement—the chair of the committee told a CEC delegation she had received around 2,000 emails!

The inquiry also exposed the government's subservience to the banking interests, including *among the so-called regulators*. Despite the huge outcry, they refused to hold public hearings on the submissions. While the Senate committee was forced by the sheer scale of the public opposition to question the Treasury and regulators on the clear evidence from the CEC and experts like former APRA researcher Dr Wilson Sy that the bill could confiscate deposits, it accepted the regulators' highly qualified denials without question and produced a report on 9 February calling the financial system "unquestionably strong" that recommended the bill be passed. That it was pushed through within

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just three sitting days after the committee produced its report, with staged non-debates in both houses in which just four members of the House of Representatives and three senators spoke, proved that it was only due to the CEC's mobilisation that this bill had been able to be delayed at all. Although the bill ultimately passed, the delay allowed time to expose the bail-in agenda to thousands more Australians, as well as many politicians, who have been left shocked by the process.

Bail-in the battle, Glass-Steagall the war

The fight against bail-in is a battle in a larger political war for a just, productive financial system that protects people's savings and serves the real economy. The larg-

er goal includes a Glass-Steagall separation of commercial banks with deposits, from all other financial services and all forms of speculation—the US law that protected Americans from banking crises for 66 years in 1933-99. Only Glass-Steagall can both protect deposits and ensure financial stability. It also includes a national bank, so that public credit can be directed into the economic infrastructure and productive industries that make the economy prosperous. With a crisis looming in the Australian property bubble that will bankrupt the banks, and more crises in the international financial system, these policies are urgent. The CEC is preparing legislation for Glass-Steagall for Australia, to go with its already-prepared national bank bill, to escalate the fight.

CEC's response to Treasurer's 'talking points' on passage of APRA bail-in law

The outpouring of public fury at the passing of the APRA crisis resolution powers bill, and at the underhanded way it was passed, has forced Treasurer Scott Morrison to issue a new "form letter" to government MPs, with talking points to justify the government's actions. Following is the form letter, with the CEC's response to each point.

Morrison: Thank you for your representations concerning the Financial Sector Legislation Amendment (Crisis Resolution Powers and Other Measures) Bill 2017, which passed in Parliament on 14 February 2018. The Bill was listed in the Senate Order of Business, as all Bills are, and every Senator had the opportunity to debate, move amendments and vote on the Bill if they so choose.

CEC: This shows the government's defensiveness at the public's obvious shock that a bill could be snuck through parliament with just seven senators present to vote in the Senate, and probably even fewer MPs present in the House. They are hiding behind the letter of the law, but flouting the spirit, because it turns out that what they did was technically legal. Many people have questioned the lack of a quorum, which is 19 senators, but it so happens that under parliamentary rules, a quorum is only necessary if someone present says "nay", and the vote goes to a division. That is shocking, but it is a convenient rule for such purposes. We have witnessed a live demonstration of just how undemocratic parliament can be, belying its Westminster heritage, which is a parliamentary system that has evolved, yes, but always with a view to preserve the power of the ruling elite.

There is evidence, however, that those in the major

parties who were determined to pass this bill, pulled a number of dirty tricks to ensure their MPs weren't paying attention. An ALP source has revealed that the party leadership did not make a submission to the ALP caucus meeting on the bill. A caucus submission is standard procedure for all legislation, so MPs know what is coming up for vote, and can discuss how they should vote. The other dirty trick was ensuring the bill was rushed through while One Nation senators weren't present in the chamber, knowing they intended to move an amendment to exclude deposits from the law.

Morrison: The legislation does not implement any sort of 'bank bail-in' policy that would allow the seizure of deposits in times of financial instability. The Government has no intention of implementing such a policy. Rather, the Government has a number of strategies in place to ensure the safety of deposits.

CEC: The government's oft-repeated reassurance is not backed up by the wording in the legislation, which does not explicitly state deposits can be bailed in, but it is worded so broadly as to ensure they are not excluded from a bail-in in some future crisis, if APRA deems it necessary for international "financial stability".

Morrison: Depositors are protected by the Government's Financial Claims Scheme (FCS), which guarantees deposits up to a cap of \$250,000 per person, per authorised deposit-taking institution (ADI). A wide range of deposits are covered under the FCS, including term deposits, savings accounts, call accounts, pensioner accounts, trustee accounts and retirement savings accounts. While the Government *retains discretion* to activate the FCS when an institution fails, this discretion is underpinned by the Government's ongoing commitment to protect depositor interests, a commitment which the Government takes very seriously. (Emphasis added.)

CEC: This is a huge admission by the Treasurer, which confirms Dr Wilson Sy's charge that deposits are not actually guaranteed right now, but require the government to first "activate" the FCS, which it may only do when an institution fails. The whole purpose of bail-in is to stop an institution from failing, so a bail-in could happen well before the government decides to activate the FCS, rendering it moot. Note that Morrison's assurance that the government will activate the FCS amounts to "trust us—we have your best interests at heart".

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