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Independent Political Party

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Tell Commissioner Hayne: break up the banks!

- Commissioner Kenneth Hayne's interim report of the Financial Services Royal Commission cites the precedent of the *Glass-Steagall Act*, and seeks submissions on questions of the structure of regulation and the structure of the banks.

- The vested banking interests and their political minions oppose structural separation, so it is imperative that as many people as possible make submissions to Commissioner Hayne delivering the clear message that the banks must be broken up.

- The deadline for submissions is 26 October. Visit <https://royalcommissioninterimreportwebform.lawinorder.com.au/#/> for the online submission form.

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 '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.*" (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?

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- 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 financial 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.

Make a submission

It is very important that everyone who supports Glass-Steagall and the Separation of Banks Bill make a submission on the interim report by 26 October. The banks will be frantically telling Hayne that structural change is unnecessary, and the government and APRA will be looking for ways to protect the banks. Commissioner Hayne needs to know that the public demands structural change.

Making a submission is simple. Click on this link <https://royalcommissioninterimreportwebform.lawinorder.com.au/#/> to go to the online submission form, fill out your details, click "Next", write your submission in the box and then click "Submit". In your submission answer any or all of the questions Hayne asked above.

(For those who can't make a submission online, mail a written submission to: FSRC, PO Box 5446, Kingston ACT 2604. Make sure you include your name and contact phone number, and indicate whether you want your submission to be published or kept private.)

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