

# Bailing out banks with bail-in laws



Why your deposits are at risk

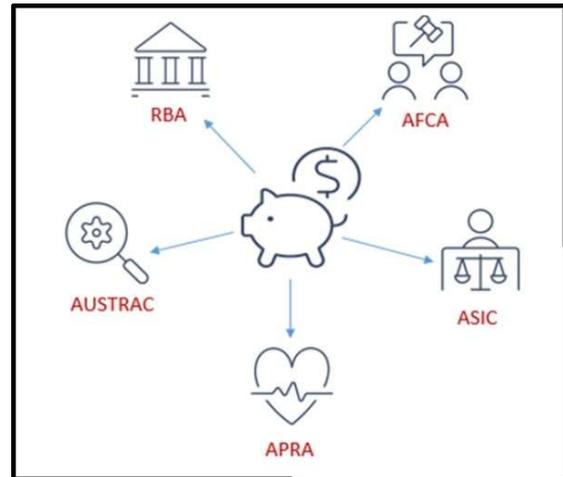
Trevor Ward © 2025

**M**ost NEXUS readers will understand that our civilisation as we know it is undergoing massive change at an accelerating pace and becoming extraordinarily complex. Faced with such rapid change, unless you know the facts, it isn't easy to make an informed decision. Particularly around the global financial system with a chaotic geopolitical climate and debt-based fiat monetary system that is on "life support". Plus constant media chatter about a global reset. Donald Rumsfeld once famously said "...there are things we know we know... We also know there are known unknowns... But there are also unknown unknowns—the ones we don't know we don't know."<sup>[1]</sup> With that

in mind, information is hidden from the public, and sometimes for valid reasons, to prevent panic and making a situation worse, like a run on the banks. But I'm about to reveal to the readers that financial information provided can also mislead and prevent us from making an informed choice or lull us into a false sense of security.

In Australia, the Hayne Royal Commission in December 2017 <sup>[2]</sup> into misconduct in the banking, superannuation and financial services

industry, exposed some of the shonky practices with loans, insurance, and funds management. Few reforms were publicly perceived as successful and not one banker went to jail, despite the criminality uncovered. In addition, the terms of reference of the Royal Commission specifically excluded bank regulation from any scrutiny. Yet the Turnbull Government was able to whisk the Financial Sector Legislation Amendment (Crisis Resolution Powers and Other Measures) Bill 2017<sup>[3]</sup> through the Senate and into law on 14th February 2018. Of the Parliament's 76 upper house senators, only seven were present when the government rushed the bill to a vote. It was passed "on the voices" (i.e., no record of who voted) and with no opposition from the Labor Party or Greens senators.<sup>[4]</sup> The process was rushed through when they realised the One Nation senator Pauline Hanson, who planned an amendment, wasn't present. The amendment proposed was to exclude bank deposits from the Bill's "bail-in" provisions. Here is our democracy at work, with only seven senators voting and passing a bill that has a major impact on the public. That hardly makes a quorum for such an important bill from a house of review. It doesn't, as a quorum requires one-quarter or 19 Senators to be present.<sup>[5]</sup> This is not the democracy we voted for. Seven senators ticking and flicking a bill with such wide ramifications is a democratic failure and betrayal of public trust. The mainstream press should have been all over such conduct. So, you may be encountering this



information for the first time unless you have read about it in the alternative media. Those in Australia believe deposits in bank accounts and deposit-taking institutions (DTIs) are safe, since depositors' funds are guaranteed up to \$250,000 via the Financial Claims Scheme (FCS), established after the 2008 Global Financial Crisis (GFC). The Australian Securities and Investments Commission (ASIC) Money Smart website states: "The FCS is a government-backed safety net for deposits of up to \$250,000 per account holder per authorised deposit-taking institution (ADI)..."<sup>[6]</sup> Well no, the guarantee is not an automatic process and now is just one of a range of options the Australian Prudential Regulation Authority (APRA)<sup>[7]</sup> has in its regulatory arsenal. APRA has always had the power to capitalise depositors' funds, known as a "bail-in" by not choosing to activate the guarantee, which is now enshrined in the "Other Measures" of the Crisis Resolution Powers Bill. APRA is responsible for maintaining the stability and efficiency of the payments system and regulates the banks, DTIs, insurance and superannuation

industries, including private health insurers. It collects a levy from each of these institutions as a cost recovery for supervision, and APRA may apply a special levy on institutions for any shortfall in depositors' funds after the winding up of a failed entity. Investment Analytics Researcher, Dr Wilson Sy noted in his 2017 submission to the Senate on this matter: "There is a widespread misconception (even e.g. ASIC) that bank deposits are currently guaranteed for at least up to \$250,000. The Financial Claims Scheme (FCS) through which APRA administers the guarantee has not yet been activated, as the FCS website clearly states: "The FCS can only come into effect if it is activated by the Australian Government when an institution fails. Once activated, the FCS will be administered by the Australian Prudential Regulation Authority (APRA)." "Hence, it should be emphasised that: Bank deposits are not protected or guaranteed at all."<sup>8</sup> Please note: Historically, APRA has activated the guarantee only once, relating to the recovery of funds from the failed general insurer Australian Family Assurance Limited in 2010.

### **Background to the Crisis Resolution Powers and Other Measures Bill**

The Financial Sector Legislation Amendment (Crisis Resolution Powers and Other Measures) Bill 2017 amends the Banking Act 1959, Insurance Act 1973, Life Insurance Act 1995 and five other acts to give APRA additional powers for crisis resolution. The passing of this legislation includes the power to

convert depositors' funds to bank capital (equity) via stocks, shares, or convertible bonds if the bank or DTI defaults on its obligations. APRA does not have to account to the public for its actions, with all discussions held behind closed doors. Let's make it clear, the legislation protects only the regulators and the regulated industry players to ensure the payment system remains viable. The Bill was sent to the Senate Standing Committee on Economics for consideration of public submissions in December 2017.<sup>[9]</sup> Most non-bank submissions asked for a US-style "Glass-Steagall" firewall be included in the provisions in place of the FCS. The committee ignored all the submissions by concluding in their report that they were satisfied deposit funds were protected by the FCS despite information to the contrary. As mentioned, the guarantee has only been activated once on a small insurance entity. There is no certainty the government via the Treasury and APRA will invoke the guarantee should a large financial institution default and give depositors what is euphemistically called, "an economic haircut" by taking a percentage of the deposits, or worse, converting them all to capital in the form of shares, bonds or other instruments.

### **The Great Financial Crisis in 2008 (GFC)**

What happened during the 2008 GFC is a case in point, when the government, in the public interest, assured depositors that the banks were safe, saying that Australian banks were



strong, well-funded and met all prudential requirements. It is worth noting that banks and other financial institutions experience continuous intra-day fluctuations in their liquidity positions due to transactional flows. To ensure the end-of-day books are balanced, they may engage in short-term funding operations within the interbank money market to address temporary liquidity deficits or place surplus funds on the short-term money markets. While Government assurances were understandable, two of the "Big Four" banks borrowed a combined total of \$5.9 billion from the US Federal Reserve via a Term Auction Facility (TAF) [10] during the GFC to shore up their books. Naturally, this wasn't made public until a FOIA request by US Texas Senator Ron Paul into why the Federal Reserve were lending to foreign banks and disclosed the names of those banks. [11] The disclosure is significant for two reasons: 1: The Federal Reserve required a surety for the loans from the local central bank. If a default had occurred, that liability would likely have been picked up by the Reserve Bank of Australia (RBA), then taxpayers and/or depositors' funds if there were insufficient funds available after liquidation.

2: The banks argued the loans weren't "material" despite representing 10 per cent of Australia's total debt level in 2008 of \$60 billion. That points to the banks' sensitivities over the matter. We don't know if the RBA had the assets and formal security on bank assets to cover such loans, or if the RBA received any financial consideration for providing the surety to the two banks. Money Morning Newsletter claims that the RBA denied any knowledge of the (TAF). Yet, the Terms and Conditions for a (TAF) loan specifically require the local central bank to provide a surety.[12]



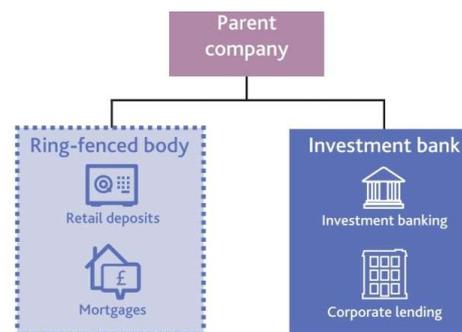
What the above information shows, along with the "sensitivity" of the two banks and the RBA as highlighted by questions put by Money Morning Australia, is that the two banks might have brought our financial system down if it had become known the extent of the loans at that time. That depositors' and taxpayers' funds may have been at risk had a default occurred. Crucially, we don't know how much of the loans were related to their retail core business and what percentage was related to shortfall/liquidity issues relating to exposure to derivatives or wholesale and speculative activity. Note that banks borrow depositors' funds at interest to leverage the funds for the

wholesale market and invest in various securities/derivatives to make large profits. None of those profits flows back to depositors, but the risk does. You can see why a banking "firewall" is necessary to quarantine depositors' funds from the riskier investments. In a default situation, it would be difficult to determine what the actual fallout might be, as to the quality of and ability of the banks to liquidate assets and should the information become public, causing a run on those banks, adding further fuel to the fire. A Glass–Steagall type "firewall" clearly would help to dampen those concerns. But there is a pattern here, where the government seems to be bending over backwards to protect the banks at the expense of public interest.

### Bank of England and "Ring-Fencing" of Large Banks

After the 1929 crash, the US introduced the Glass–Steagall Act, which the Clinton administration repealed, resulting in the great bailout of the banks, etc., in 2008.<sup>[13]</sup> The use of taxpayer funds to bail out "too Big to Fail" banks is likened to a great American bank robbery with Barack Obama driving the getaway car.<sup>[14]</sup>

In the UK, the Bank of England had quietly gone about introducing legislation, as they put it, called: "Ring fencing", <sup>[15]</sup> around large banks' deposits and core service operations, separating them from the wholesale, investment/trading operations. However, they have bail in provisions as



well. One might ask, well, if it's okay for the Bank of England to introduce a protective measure, why isn't it being considered in Australia? The banks balk at the cost of implementing the process, but they already pass on any banking costs, so it is not a valid argument. Given the currency of the issues around banks generally, I feel it important that such regulation be put back on the agenda. The latest actions show it is certainly in the public interest.

### Bank of Cyprus Crisis 2012–2013: A Recent Case Study



The Cyprus financial crisis that occurred not so long ago,<sup>16</sup> was triggered by the country's exposure to the Greek government debt crisis, mismanagement of its banking sector, and a lack of effective regulatory oversight. It culminated in a controversial bailout, including a levy on "uninsured" bank deposits.

The crisis was caused by Cypriot banks, particularly the two largest, Bank of Cyprus and Laika Popular Bank, holding substantial amounts of Greek government bonds. The value of these bonds held by Cypriot banks plummeted, leading to enormous losses and severely weakening their capital positions. Needing external assistance, the government sought financial aid from the EU Commission, the EU Central Bank and the IMF. The initial bailout proposal in March 2013 was highly controversial. It included a levy (a one-time tax) on all bank deposits, including insured amounts below €100,000. This sparked widespread anger and panic among depositors because their funds were insured. After the significant backlash and rejection by the Cypriot parliament, a revised bailout agreement was reached. This agreement focused the losses on uninsured depositors (those with over €100,000) in the two largest and most insolvent banks. Laika Popular Bank was effectively dissolved, with its healthy assets transferred to the Bank of Cyprus, and its remaining assets and liabilities (including large uninsured deposits) being wound up, resulting in significant losses for uninsured depositors. Bank of Cyprus underwent a "bail-in," where a significant portion of uninsured deposits was converted into equity (shares), effectively imposing losses on those depositors. The stark reality is that our bank deposits aren't "insured", and it is uncertain what the Treasury and APRA might or might not do with the additional new laws. As

mentioned, Australian depositors "dodged a bullet" in 2008 and one wonders if we are lucky enough to do it again.

### **What, if Anything, Can You Do?**

I'm not registered as a financial advisor, so I can't give specific financial advice. Everyone's financial position, risk profiles and planning will vary. If one considers that cash deposits might be at risk, one shouldn't just sit back and think all will be okay. Holding large cash deposits above contingencies might be better diversified into other asset



classes. Particularly those that are income-producing as

opposed to growth. However, each class, namely bricks and mortar, shares, bonds, precious metals, artworks and managed funds/exchange-traded funds/cryptos, have their inherent risk profiles, including liquidity issues that



require professional financial advice. Particularly as the Australian

Government plans to introduce a new 15 per cent tax on "unrealised earnings" on some superannuation accounts exceeding \$3 million and likely to be eyeing off investment properties down the track to prop up a financial system that is consuming itself. A system that wants short-term gains, that cares little about the long-term consequences and

has an insatiable drive for growth to extract value and suck the life out of every asset which is no longer sustainable. We all must be cognisant that we are on the cusp of major financial/geopolitical changes that will affect every facet of our lives, particularly as the central bankers want to implement a new global currency that is digital and cashless. Although I would hope the policymakers take note of what happened in Norway when they went cashless and discovered what we all know—when everything goes offline, then cash is king. I'm sure you'll agree that what we thought was true yesterday is not necessarily true today. The information I have shared with you supports this view. Therefore, the best advice I can give going forward, is don't rely on what you are told. Ask yourself if it is true, and can I verify the information, even the information in this article? Always trust your gut instincts. Because, at the end of the day, if you cannot trust the government, politicians and the media, then there is only one option left—your intuition. Keep your eyes and ears open and don't react, do your homework, and respond.

### **About the Author:**

Trevor Ward holds a diploma in banking and finance and financial markets. He worked in the banking industry for 27 years to the level of manager for risk and compliance in credit risk management. He also spent 14 years in the public sector as a financial analyst.

### **Endnotes**

1. There are unknown unknowns, Wikipedia, Donald Rumsfeld on Iraq WMDs: <https://tinyurl.com/2n6lm8u4>
2. ASIC, Financial Services [Hayne] Royal Commission: <https://tinyurl.com/2ccpoasw>
3. Financial Sector Legislation Amendment (Crisis Resolution Powers and Other Measures) Bill 2017: <https://tinyurl.com/24ccj3uv>
4. Ainslie Bullion, Senate Passes 'Bail In' Law – How Safe Is Your Cash Now?, 20 February 2018, <https://tinyurl.com/srsm2683>
5. Sections 22 and 39 of the Australian Constitution set the quorum for sittings of the Senate. In the Senate, the quorum was amended down to one-quarter by the Senate (Quorum) Act 1991, that is, 19 senators are required to meet a quorum. If at the beginning of a sitting the quorum is not met, the bells are rung for five minutes, and a count is then taken; if the quorum is still not met the sitting is adjourned until the next sitting day.
6. Financial Claims Scheme (FCS), ASIC Deposit Guarantee: <https://tinyurl.com/2b9r57aa>
7. About APRA: <https://www.apra.gov.au/about-apra>
8. Former APRA Dr Wilson Sy's public submission to the Senate Standing Committee on Economics (listed no1 and can be downloaded in PDF form)

Submissions – Parliament of Australia,  
<https://tinyurl.com/29cfvxmm>

9. Parliament of Australia, Submissions,  
Senate Standing Committee on  
Economics for consideration of public  
submissions:

<https://tinyurl.com/29cfvxmm>

10. Federal Reserve will conduct two  
auctions of 28-day credit through its  
Term Auction Facility in February, 1  
February 2008, Federal Reserve,

<https://tinyurl.com/2ah2ewu6>

11. NAB and Westpac almost collapsed  
during the GFC, David Donovan,  
Independent Australia, 11 January 2012,

<https://tinyurl.com/2y3gzmb8>

12. Federal Reserve, Terms and  
Conditions for Term Auction Facility,  
Revised July 30, 2008,

<https://tinyurl.com/22pzr4h>

13. Wikipedia, Aftermath of the repeal  
of the Glass Steagall Act,

<https://tinyurl.com/226ql3ba>

14. The Great American Bank Robbery:  
The Unauthorized Report About What  
Really Caused the Great Recession  
Paperback – January 17, 2011

15. Bank of England, Ring-fencing,

<https://tinyurl.com/23qnxqt4>

16. The European Union Center of the  
University of North Carolina, Lessons  
from Cyprus,

<https://tinyurl.com/bde44yb3>

[www.nexusmagazine.co](http://www.nexusmagazine.co)