



10 July 2020

Senate Standing Committees on Economics  
PO Box 6100  
Parliament House  
Canberra ACT 2600

By email: [economics.sen@aph.gov.au](mailto:economics.sen@aph.gov.au)

Dear Committee

## Banking Amendment (Deposits) Bill 2020

The Australian Banking Association (**ABA**) appreciates the opportunity to provide comments to the Senate Standing Committees on Economics inquiry into the *Banking Amendment (Deposits) Bill 2020*.

The *Financial Sector Legislation Amendment (Crisis Resolution Powers and Other Measures) Act 2018* (**Crisis Resolution Act**) provides the Australian Prudential Regulation Authority (**APRA**) with the necessary powers to manage the resolution of a financial institution in an orderly way that is designed to protect depositors and policyholders and avoid any financial instability.

Depositors in Australia are further protected by the Government's Financial Claims Scheme (**FCS**), which guarantees deposits up to a cap of \$250,000 per person, per Australian Deposit-taking Institution (**ADI**). A wide range of deposits are covered under the FCS. Depositors are also protected under the Banking Act, which gives these deposit holders priority over other creditors in the winding up of an ADI<sup>1</sup>.

The protection of depositors is vital to systemic financial stability. The importance of ensuring depositors are confident in the Australian banking system cannot be understated. Any bail in of deposits would negatively impact this and will likely have wider contagion effects, potentially including a run on other ADIs, which would cause significant instability across the banking system. Any bail in of deposits would also conflict with APRA's objectives of ensuring financial stability and protecting the interests of depositors and policyholders.

### APRA's capital framework

The *Banking Act 1959* provides APRA with the power to set prudential requirements with regards to the capital instruments that an ADI must hold. APRA's current prudential standards provides for Common Equity Tier 1 (**CET1**), Additional Tier 1 (**AT1**) capital, and Tier 2 capital instruments. To fall within the capital framework, these instruments must contain contractual terms allowing for their conversion to equity or their write-off once certain triggers are met. The Crisis Resolution Act provides APRA with the power to write-down or convert these capital instruments in resolution in accordance with their contractual terms. As deposits do not form part of APRA's current capital framework, nor do they have terms allowing for their write-down or conversion, they could not be bailed in through any resolution process.

---

<sup>1</sup> Section 13A(3) of the Banking Act 1959.



Australian Banking  
Association

It is for the above reasons that the ABA believes that deposits are currently protected and could not be bailed in during the resolution process of any ADI. The ABA will defer to this Committee for a decision as to whether the passage of this Bill is necessary to provide clarity.

Please do not hesitate to contact me if you have any questions on this submission.

Yours sincerely

Essam Husaini  
Associate Director, Policy  
Australian Banking Association