

Banking expert destroys Treasury arguments against Glass-Steagall

Dr Wilson Sy, a former Principal Researcher at the Australian Prudential Regulation Authority (APRA), the bank regulator, has issued a point-by-point refutation of the Commonwealth Treasury's arguments against the need to separate Australia's deposit-taking commercial banks from investment banking and other financial services. See below.

Prefacing his response, Dr Sy noted Treasury's lack of credibility on banking issues. "Before the Hayne Royal Commission (HRC) was called, most politicians have declared that a royal commission would be a waste of time—unnecessary because, in the opinions of the Treasury

and regulators, the financial system is basically sound", he said. "Just a few weeks of hearings were sufficient for many politicians to express shock and horror about the revelations—a total about-face from their earlier complacency. Have not the members of parliament and the public been misled by the Treasury and the regulators?

"These revelations are merely the tip of the iceberg on fraud and misconduct, because some of the misconduct has stretched back many years, indicating an incompetent or corrupt regulatory system. Then why are opinions of the Treasury and the regulators to be believed now?" he asked.

Comments on the Australian Treasury's negative response to banking separation

by Dr Wilson Sy, Investment Analytics

A member of parliament sent the current *Banking Separation Bill* (BSB), introduced by Bob Katter and seconded by Andrew Wilkie, to the Australian Treasury which has replied with the following negative response (verbatim and in italics). Emphasis has been added in bold to indicate where our comments are directed, particularly where the statements are factually false, misleading or unsound policy.

The Government does not intend legislating to structurally separate retail and commercial banking from investment banking in Australia. While such measures may be appropriate for some jurisdictions, it is not considered necessary in Australia at this time **as our financial system already exhibits a high degree of structural separation. Foreign bank branches play a major role in investment banking** but only have a small presence in retail and commercial banking. By contrast, **Australia's major banks** have a significant presence in retail and commercial banking, but **do not have large investment banking businesses**. As such, legislative structural separation is unlikely have a material impact on reducing risks in the Australian financial system.

The Government's position is consistent with the recommendations of the **Financial System Inquiry (FSI)**. **Structural separation of retail and commercial banking from investment banking, including Glass-Steagall legislation in the US, was considered by the FSI in 2014**. However, the FSI concluded that robust crisis resolution powers were a more effective means of enhancing the resilience of and stability within the Australian financial system and consequently recommended in its Final Report that existing crisis

resolution powers be strengthened for this purpose. In its response to the FSI, the Government agreed with this recommendation and committed to providing regulators with clear powers in the event a prudentially regulated financial entity or financial market infrastructure fails.

To meet this commitment, the Government legislated the **Financial Sector Legislation Amendment (Crisis Resolution Powers and Other Measures) Act 2018** to strengthen the Australian Prudential Regulation Authority's (APRA's) crisis management toolkit in relation to banks and insurers. The legislation enhances APRA's crisis management powers by providing APRA with:

- Clear powers that enable APRA to set requirements on resolution planning and ensure banks and insurers are better prepared for a crisis; and

- An expanded set of crisis resolution powers that equip APRA to act decisively to facilitate the orderly resolution of a distressed bank or insurer.

These enhanced powers ensure that APRA is adequately equipped to manage **the unlikely event a bank or insurer fails, a risk that exists regardless of whether structural separation is in place**. More broadly, these powers build on the **Government's approach** to minimising risks in the Australian financial system, which **focuses on strong prudential supervision across each institution's business**, rather than requiring institutions to segregate its [sic] business activities.

The Treasury response includes the following false and misleading statements:

- Our financial system already exhibits a high degree of structural separation;

- Foreign bank branches play a major role in investment banking;
- Australia's major banks ... do not have large investment banking businesses;
- Structural separation of retail and commercial banking from investment banking, including Glass-Steagall legislation in the US, was considered by the FSI in 2014;
- the unlikely event a bank or insurer fails, a risk that exists regardless of whether structural separation is in place;
- Government's approach focuses on strong prudential supervision across each institution's business.

It is false to say **“Our financial system already exhibits a high degree of structural separation”**. The four major banks with over 76 per cent of total assets of the financial system have highly integrated businesses which are not structurally separated. They have a major presence in nearly every aspect of finance: commercial banking including deposit taking, household and business lending, and investment banking including corporate finance, capital raising, stockbroking, market making, proprietary trading, derivatives trading, financial advice, estate planning, insurance, superannuation, custody, asset consulting and so on.

The only sense in which **“our financial system already exhibits a high degree of structural separation”** is our regulatory structure, with separate roles for the Treasury, the Council of Financial Regulators, RBA, APRA, ASIC and ACCC. This highly separated regulatory structure is inappropriate for our highly integrated major banks.

The Hayne Royal Commission (HRC) has begun to expose that the **lack of structural separation** within major banks has caused many problems which have “fallen between the cracks”, with “finger pointing” and “buck passing” between the regulators. The **“Government’s approach [which] focuses on strong prudential supervision across each institution’s business” has failed** because the HRC evidence suggests the regulators are incapable of strong prudential supervision, particularly in mortgage lending and superannuation operations.

Outside traditional lending of commercial banks, the four major banks have 80 per cent while foreign banks have 20 per cent of the investment bank market. It is false to say **“Foreign bank branches play a major role in investment banking”**. It is also false to say **“Australia’s major banks ... do not have large investment banking businesses”**.

Foreign banks have \$103 billion in “liquids and securities” assets out of a system total of \$910 billion or 11 per cent of the total. Foreign banks have \$299 billion in non-loan assets out of a system total of \$1,469 billion or 20 per cent of the total (see Table 1). While most foreign banks’ activities (more than 50 per cent) not being related to traditional lending may be considered mostly investment banking, foreign banks’ share of investment banking (11 to 20 per cent) is still minor in Australia.

The Financial System Inquiry (FSI) was chaired by the former CEO of the Commonwealth Bank (1992-2005), David Murray, whose main claim to fame was that

Table 1: Balance Sheets of main banking sectors (Mar 2018)

	ADIs	Majors	Foreign	Foreign (%)
Housing	1,958	1,622	72	4
Liquids and securities	910	702	103	11
Total loans	3,198	2,547	290	9
Non-loan assets	1,469	1,023	299	20
Total assets	4,667	3,570	589	13
Deposits	2,761	2,170	267	10
Total liabilities	4,368	3,330	567	13
Equity	299	240	22	7
Capital Ratio (%)	6.4	6.7	3.7	

As at March 2018, the nominal GDP measured by the ABS, for the size of the Australian economy is \$1,728 billion. The structure of the Australian banking system is seen by the balance sheets of the main sectors given by APRA statistics (Quarterly ADI Performance, issued 21 June 2018) in Table 1, where all figures are in AUD billions except where stated as percentages. Authorised Deposit-taking Institutions (ADI) are regulated by APRA under *Banking Act 1959*.

he **“oversaw the transformation of the Commonwealth Bank from a partly privatised bank to an integrated financial services company”** (FSI Final Report, p. x). It is therefore highly unlikely that he would have made any serious attempt to investigate the structural separation of integrated banks.

In the FSI final report, there was no mention of **Glass-Steagall legislation in the US** and there were only a few passing mentions of structural reforms (e.g. ring-fencing), but “separation” was mentioned only once in relation to operations. It is misleading to say **“Structural separation of retail and commercial banking from investment banking, including Glass-Steagall legislation in the US, was considered by the FSI in 2014”**.

Indeed, structural reforms were only mentioned as unnecessary because the FSI recommended crisis management, rather than crisis prevention, as a solution to any structural weakness in the Australian financial system. In February this year, the Government passed the **Financial Sector Legislation Amendment (Crisis Resolution Powers and Other Measures) Act 2018** to give APRA crisis management powers to reorganise secretly insolvent institutions, including the conversion or confiscation of bank deposits.

It is misleading to assert that a bank or insurer failure is **“a risk that exists regardless of whether structural separation is in place”**. Under structural separation, for several decades of Glass-Steagall legislation, the risk and consequence of a bank or insurer failure were so much smaller that there was no need for any special crisis resolution powers. Instead of preventing crisis, the unsound policy now is to allow every crisis to provide an opportunity for the banks to loot the wealth of ordinary tax-paying citizens through “bail-outs” and “bail-ins”.

Neither the Treasury nor the regulators acknowledge the cancer of our financial system—the \$40 trillion worth of over-the-counter derivatives, which are growing and could potentially hide substantial losses off the balance sheets of Australian banks. At current levels, one per cent loss on this derivative exposure from investment banking will wipe out the entire equity of the system, potentially hurting many innocent bank depositors—banking separation is urgently needed to avoid crisis for the safety and stability of our financial system.