



## Australian Government

### The Treasury

#### ***FINANCIAL SECTOR LEGISLATION AMENDMENT (CRISIS RESOLUTION POWERS AND OTHER MEASURES) BILL 2017***

#### **SUMMARY OF CONSULTATION PROCESS**

The Government announced on 20 October 2015 that it would strengthen the powers of regulators in the event a prudentially regulated financial entity fails.

This measure was included in Financial Sector Legislation Amendment (Crisis Resolution Powers and Other Measures) Bill 2017, which was introduced into Parliament on 19 October 2017 and received Royal Assent on 5 March 2018.

#### **Consultation process**

Consultation on the ‘Strengthening APRA’s Crisis Management Powers’ was conducted between 12 September 2012 and 14 December 2012. 25 submissions were received, of which 6 were confidential.

The Financial System Inquiry (FSI) Final Report (December 2014) recommended the completion of existing processes for strengthening crisis management powers. As part of the FSI, two rounds of public consultation were conducted. In developing the Government’s response to the FSI, Treasury received submissions on the recommendations in the Final Report.

As part of developing the package, Treasury officials and APRA representatives held numerous discussions with key stakeholders – peak representative bodies for the banking and insurance industries as well as law firms specialising in banking and insolvency.

Consultation on the draft legislation was conducted between 18 August 2017 and 8 September 2017. Targeted consultation meetings were held in the month before the public exposure of the draft legislation in Sydney. 262 submissions were received. 9 submissions were from industry, of which 3 were confidential. 253 submissions were received as a result of a campaign by the Citizen’s Electoral Council.

Submissions can be viewed on the Treasury website [www.treasury.gov.au](http://www.treasury.gov.au).

#### **Summary of key issues**

There were three main themes raised in the 2017 consultation.

The first theme was broad support for the measures, along with suggested technical amendments. To address this feedback, amendments to the Bill have been made to ensure that the law operates in line with the Government’s policy intent.



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The second theme was opposition to the extension of resolution powers which are purportedly primarily oriented on the banking industry to the insurance industry. The failure of HIH Insurance and the role of insurers in the global financial crisis demonstrated the need for comprehensive resolution powers to apply to insurers as well as banks. Therefore, no changes to the Bill were made as a result of this feedback.

The third theme were submissions advocating for legislation to require banks to separate retail and investment banking instead of legislating enhanced crisis management powers. As Australian banks already exhibit a high degree of structural separation, this measure is not deemed necessary.

#### **Feedback**

Feedback on the consultation process for this measure can be forwarded to [consultation@treasury.gov.au](mailto:consultation@treasury.gov.au) . Alternatively, you can contact Patrick Mahony on (02) 6263 3237.

Thank you to all who participated in the consultation process.