

# Citizens Electoral Council of Australia

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## Citizens Electoral Council submission to Financial System Inquiry

26 August 2014

### Contents

Pp. 1-15	Written submission
Attachment 1:	Memo: The great Australian mortgage bubble
Attachment 2:	The Commonwealth National Credit Bank Bill

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26 August 2014

# **Australia needs a new financial system, based on Glass-Steagall and a national bank**

## **Summary**

Australia faces a historic choice, of either sticking with the present financial system which is locked into the bankrupt financial systems of Europe and the United States, or participating in the emerging economic strength of the BRICS nations—Brazil, Russia, India, China, and South Africa—and their partner-nations in economic development.

If Australia sticks with the present system, modified by supposed reforms such as “bail-in”, the Australian financial system is at risk of a complete meltdown in the next global financial crisis. International experts are warning that another global crisis is brewing that will be worse than 2008 due to the greatly-expanded level of global indebtedness and resurgence in risky derivatives speculation. Australia’s banking system is concentrated in just four too-big-to-fail (TBTF) banks, and a globally notorious commercial/investment banking conglomerate, Macquarie Bank, which are all dangerously exposed to hyperinflated property values and related, rapidly-growing derivatives obligations. A crisis that crashes the domestic property market will wipe out the major banks.

If Australia chooses to participate in the new development opportunities emerging from the collaboration between the BRICS nations and others, it will revitalise Australia’s productive economy. Two of the BRICS nations, China and India, are already among Australia’s major regional trading partners. The BRICS have established international credit facilities committed to financing economic development projects. Russia has announced an intention to employ internal, sovereign credit to develop its economy; China and India already use sovereign credit from public credit institutions for internal economic development. Australia too should return to a sovereign credit system.

There are two specific measures that Australia must adopt to protect the population from the next financial meltdown, and establish a sovereign credit system that can finance economic development. The first is a full Glass-Steagall separation of retail banking from investment banking; the second is a national bank, based on the Hamiltonian credit system first developed in the U.S., and implemented previously in Australia using the original Commonwealth Bank.

Glass-Steagall will protect the functioning of the daily economy as the bubble of financial speculation implodes; perhaps more importantly, it will establish the principle that the only economic activity that warrants the support and protection of the government is that which is related to the productive physical economy, not the casino of financial markets. A new national bank will enable the government to direct credit into major public infrastructure projects, and productive industries, which strengthen and prosper the economy.

### Threat of new global financial crisis

The FSI Interim Report refers to applying lessons from the 2008 global financial crisis. This is more urgent than the report acknowledges, because another, deeper and more violent financial crisis is looming.

Presumably the well-connected bankers, business executives and academics on the FSI panel are already aware of the looming danger. There have been numerous warnings for a long time that the global debt situation is far worse now than in 2008. The latest information on this danger includes:

\* The Bank for International Settlements' latest figures on over-the-counter (OTC) derivatives, the toxic instruments which blew out the financial system in 2008, which reveal that the general plateau and even small decline in total global OTC derivatives from 2008 to 2012 has ended. In the past 18 months global OTC derivatives have resumed the explosive growth that characterised the trade up to 2008, which is expected to be 20 per cent for the year. As of December 2013 the BIS semi-annual survey reports total notional amounts outstanding of \$710 trillion. This figure only includes reported derivatives: analysts at *Executive Intelligence Review* magazine in the U.S., the world's experts in the danger of derivatives, estimate that total reported and unreported derivatives have now reached \$2 quadrillion (\$2,000 trillion).

\* The 19 August *Financial Times* report entitled, "Investors dine on fresh menu of credit derivatives", which warns that a growing portion of the global derivatives trade is in variations of the same dangerous credit derivatives that caused the meltdown of Lehman Brothers and AIG in 2008. Hayman Capital Management's Kyle Bass, who published the first warning in 2007 that credit derivatives would bring down the system<sup>1</sup>, is cited warning of another AIG. According to Janet Tavakoli, president of Tavakoli Structured Finance, "We've reformed nothing. We have more leverage and more derivatives risk than we've ever had."

\* The procession of experts who are warning of an imminent crash, including former Bank for International Settlements chief economist William White, who told *Focus Money* 31 July that the world is still in the midst of the crisis and the worst is yet to come: "I think that the cause of the financial crisis was an excessive policy of cheap money combined with new financial products. This has led to a giant credit bubble, especially in the advanced economies. Since then, nothing has really changed. An active financial policy pumps the credit volume excessively like before, i.e., it does the same thing that has originally unleashed the disaster." Nikolaus von Bomhard, chief executive officer of the world's biggest reinsurer, Munich Re, has likewise warned that the expansive central bank policy called quantitative easing has reached its limit, and is coming to an "inflection point" now in Europe. London investment manager and columnist Liam Halligan wrote in *The Spectator* 26 July, "It strikes me, in fact, that the whole economic shebang is balanced on a cliff edge."

\* The new phase of financial meltdown that has already started in Europe, with major bank crashes in Portugal, Austria, and Bulgaria, including Austria's Hypo Alpe-Adria bank, Portugal's failed Banco Espírito Santo, and Bulgaria's Corporate Commercial Bank—the latter two both have close ties back to the major French bank Crédit Agricole. The European Central Bank's "stress tests" are yet another factor, causing large Eurozone banks to attempt to sell off around \$800 billion of toxic assets<sup>2</sup>, to the only set of prospective buyers: the "vulture funds" currently trying to extort Argentina. Such funds purchase distressed debt at a few cents on the dollar, then demand payment of the full face value at a future date. A "Distressed Debt Investing Summit" took place in London on 18 September, with such funds focusing on the ample carrion to pick over in Europe.

<sup>1</sup> <http://ftalphaville.ft.com/2007/08/21/6727/the-full-subprime-letter-from-haymans-kyle-bass/>

<sup>2</sup> <http://larouchepac.com/node/31316>

\* The latest RBA statistics which show that Australian banks' off-balance sheet obligations, which are mostly derivatives, are now more than \$24 trillion<sup>3</sup>. The Big Four banks and Macquarie account for more than half of that exposure. It is repeatedly claimed that Australian banks' OTC derivatives are simple hedging, and not "dangerous", but that assumes the banks disclose their full positions in an area that is notoriously lacking in transparency. CBA and Macquarie Bank both refuse to disclose the total notional amount, or face value, of their derivatives<sup>4</sup>, which is the relevant figure in a banking crisis; so-called "netting", which drastically reduces the derivatives liability figure down to the net margin of gain, assumes all banks meeting all of their obligations, and doesn't factor in Lehman-style bank failures and the resulting "contagion". The most worrying aspect of the derivatives exposure of Australia's banks, which contradicts the assurances that they are simple hedging derivatives, is their explosive growth since 2008. From 2008-12 when global OTC derivatives growth stagnated, the off-balance sheet business of Australia's banks skyrocketed from \$13 trillion to \$19 trillion, and is now \$24 trillion—most of that, \$18.8 trillion, is OTC derivatives. The fastest growth was that of Australia's biggest and supposedly most profitable bank, CBA, which suddenly stopped disclosing its full position in 2012 after a dramatic increase in its derivatives contracts.<sup>5</sup>

Regardless of the actual risk in terms of the derivatives exposure of Australia's banks, another global financial crisis will severely impact Australia's financial system in any number of ways. Australia is most vulnerable to a meltdown of the domestic housing market, which has been exceedingly over-inflated for more than a decade. Not so much if, but *when*, it crashes, as every other housing bubble in the world has crashed, it will wipe out Australia's major banks, which are terminally exposed to these inflated property values.<sup>6</sup> The Citizens Electoral Council elaborated this risk in its first submission to the FSI on 1 April, in the Appendix entitled *Memo: The Great Australian Mortgage Bubble* (see attached).

### Alternative international responses

FSI Chairman David Murray has repeatedly stated that Australia must align with international financial developments.<sup>7</sup> In fact, Australia should stand as a sovereign nation which only cooperates with international measures that benefit the people of Australia.

There are two contrasting international responses to the economic crisis: the U.S.-European bailout/bail-in of TBTF banks to preserve the globalist system; and the emerging commitment of certain nations around the BRICS (Brazil, Russia, India, China and South Africa) to reorganise their financial systems to ensure they invest in physical economic development that raises national living standards.

### Bailout/bail-in

To date, the governments, central banks and financial authorities of the U.S. and Europe are committed to preserving the system of deregulated, globalist mega-banks which caused the present crisis. When the crisis first hit they sprang into action to bail out the TBTF banks, and imposed brutal austerity measures on their citizens essentially to pay for the bailouts while letting the bankers off scot-free in terms of criminal sanctions for their crimes which caused the crisis. Through the G20 they have since embarked on

<sup>3</sup> <http://www.rba.gov.au/statistics/tables/index.html>

<sup>4</sup> Bank annual reports

<sup>5</sup> [http://cecaust.com.au/main.asp?sub=releases&id=2013\\_02\\_22\\_CBA\\_Hiding.html](http://cecaust.com.au/main.asp?sub=releases&id=2013_02_22_CBA_Hiding.html)

<sup>6</sup> *Memo: The Great Australian Mortgage Bubble*, Citizens Electoral Council of Australia

<sup>7</sup> FSI public hearing, 14 August, Melbourne.

establishing the radical new bank resolution regime called bail-in, to further entrench the global and domestic TBTF banks.

Bail-in is a fraud. It is presented as the solution to TBTF banks requiring taxpayer bailouts. TBTF banks only require taxpayer bailouts because they are *too big*—they are multinational banking conglomerates which often combine retail banking, investment banking, insurance, stockbroking, funds management and other financial services. This exposes the deposits in the retail side of the banks to the risks that the investment and other divisions of the bank incur; 2008 demonstrated that the derivatives speculation which dominates investment banking can destroy the financial system. Bail-in does nothing to address the size and conglomeration of the banks. Rather, it forces a bank's unsuspecting customers and other unsecured creditors to wear its losses so the bank can continue to operate as a conglomerate, and continue to honour its obligations to its derivatives counterparties in other banks.

Bail-in as imposed by the European Central Bank and European Commission, devastated the Cyprian economy in March 2013. It destroyed consumer confidence in banks—which is the essence of banking—triggering predictable bank runs that forced the authorities to impose a liquidity freeze involving severe restrictions on daily bank withdrawals. The economy ground to a halt, and unemployment skyrocketed.<sup>8</sup> The European Commission has since established a Europe-wide bail-in regime. France, Germany, the U.S., Canada and Japan, to name some leading nations, have all enacted bail-in laws.

This Financial System Inquiry received submissions on bail-in in the first round, from the CEC, as well as from institutions such as the Treasury. It is an established fact that before the current Treasurer commissioned this FSI, indeed before this present government was elected, plans existed to legislate bail-in for Australia. The Financial Stability Board (FSB), which operates out of the Bank for International Settlements in Basle, Switzerland and which the G20 in 2009 charged with overseeing the implementation of bail-in among G20 member nations, revealed in its 15 April 2013 report to the G20 entitled *Implementing the FSB Key Attributes of Effective Resolution Regimes—how far have we come?*, that bail-in “legislation is in train in some jurisdictions (including Australia...” and six other nations in addition to the EU. This was unequivocal, and it followed numerous other references to Australia implementing bail-in made in official reports of the IMF and the Australian Treasury in 2012.

This would indicate that plans for an Australian bail-in law are advanced. Yet, under questioning by the CEC and members of the public, representatives of the present government have repeatedly denied any such plans. The FSI interim report discusses bail-in as just a possible option. The CEC is compelled to question whether this is a political charade, given the post-Cyprian notoriety of bail-in?

Later, this submission will demonstrate that the present Financial Claims Scheme deposit guarantee makes bail-in a necessity for Australia's Big Four banks, unless the government implements a full Glass-Steagall banking separation.

### **The BRICS credit systems to fund economic development**

The alternative to the trans-Atlantic economies' policy of preserving the size and power of the system of TBTF banks is to create a financial system that directs credit into physical economic development projects which uplift national living standards, to which the BRICS nations—Brazil, Russia, India, China and South Africa—and their collaborators are committed.

The 14-16 July BRICS summit in Fortaleza, Brazil concluded with a 72-point Fortaleza Declaration which proclaimed, “We call for an international financial architecture that is more conducive to overcoming

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<sup>8</sup> *The New Citizen*, Aug/Sep/Oct 2013

development challenges.” That summit established the New Development Bank (NDB)—an alternative to the U.S./European-controlled World Bank—with a start-up capital of \$50 billion, which the Declaration stated is to mobilise resources for infrastructure and other development projects in BRICS and other developing economies; the NDB is to be headquartered in Shanghai, China. The BRICS also established an alternative to the IMF called the Contingent Reserve Fund, initially capitalised at \$100 billion, to “help countries forestall short-term liquidity pressures”. China, the largest BRICS economy, has invited India, Thailand and other Asian nations to create an Asian Infrastructure Investment Bank (AIIB), with \$50 billion capital from governments and another \$50 billion from other sources, which will be dedicated to funding infrastructure.

Both in keeping with the BRICS developments and under the necessity forced by the sanctions on its economy, BRICS member Russia is planning to shift to a sovereign credit system. Russian economist Sergei Glazyev, an adviser to President Vladimir Putin, told *Bloomberg* on 9 August of his nation’s “plan for fast-track development of the Russian economy on the basis of a new technological order. This plan includes a *transition to a sovereign monetary system underpinned by internal sources of credit*, an active policy of innovation and support for progress in science and technology.” [Emphasis added.] Ironically, the U.S.—the source of the sanctions on Russia—invented and pioneered the sovereign credit system that Russia is planning, under the first U.S. Treasury Secretary Alexander Hamilton and later U.S. presidents such as Abraham Lincoln, as did Australia, another nation sanctioning Russia, with the original Commonwealth Bank.

A current working example of sovereign credit being directed into development is Egypt, which on 6 August commenced construction on a second Suez Canal to double the capacity of the first, the world’s most important seaway.<sup>9</sup> While in Australia investment banking-connected politicians are pushing the privatisation of assets and public-private partnerships as the only way to attract the foreign capital to fund new infrastructure, Egypt is funding this massive project entirely internally, by issuing debt certificates to Egyptian citizens, denominated in the Egyptian currency. While the European system of financial austerity has driven youth unemployment in Spain and Greece as high as 60 per cent, the Egyptian Armed Forces Engineering Authority, which is supervising the construction of the second canal, has called on *all* unemployed Egyptians under 45 to sign up for jobs on the project. Egypt is also forging closer ties to the BRICS nations: Chinese Foreign Minister Wang Yi visited Egypt on 3-4 August, inviting Egypt to join in China’s transcontinental New Silk Road infrastructure vision. Egypt’s President Abdel Fattah al-Sisi travelled to Sochi, Russia on 12 August for a two-day summit with President Putin, which discussed cooperation on trade, nuclear and hydroelectric power development, and space exploration.

As with the BRICS nations, Egypt has given firm support to the nation of Argentina in its dispute with the so-called vulture funds and the U.S. courts which are enforcing their claims. The Argentinian case typifies the widening gulf between those nations which are asserting their sovereignty over financial institutions, and the trans-Atlantic economies of the U.S. and Europe, and Australia, which continue to accept the authority of financial institutions and markets<sup>10</sup> to demand policies such as austerity and bail-in.

### **CEC recommendations to FSI: Glass-Steagall, and a national bank**

Australia needs a financial system that can safeguard the population against future financial crises and finance the economic development necessary for the nation to prosper. The CEC recommends that Australia take its lead from the practical measures which the BRICS nations and their collaborators are implementing to achieve this goal. Australia should also look to examples from its own history.

<sup>9</sup> "Egypt Sets New Course for Economic Progress; Will It Join the BRICS?" *Executive Intelligence Review*, 22 August 2014

<sup>10</sup> [http://cecaust.com.au/releases/2013\\_11\\_27\\_Goose\\_Stepping\\_Hockey.html](http://cecaust.com.au/releases/2013_11_27_Goose_Stepping_Hockey.html)

But first, Australia must emphatically reject any suggestion of a bail-in regime that makes depositors and other unsecured creditors liable to prop up failing TBTF banks. The specific bail-in measure must be rejected, as well as the principle behind bail-in which is also the principle behind budget austerity—that the functioning of the financial system is pre-eminent in the economy, above the welfare of the people. Pope Francis in his *Evangelii Gaudium* urged the rejection of “the absolute autonomy of markets and financial speculation”, charging, “Such an economy kills.”

To secure an Australian financial system that is based on the principle that the system serves the needs of the people, and ensures Australia’s ongoing economic development, Australia must implement a full Glass-Steagall separation of retail banking from investment banking, and return to national banking.

## Glass-Steagall

The only way to truly protect the vital functions of Australia’s banking system is through a full Glass-Steagall separation. When the U.S. *Glass-Steagall Act 1933* separated out investment banking and other financial services from commercial banking, it brought an end to the run of thousands of bank collapses in the U.S., and initiated a five-decade period of virtually no bank crises in that nation until the 1980s, when the deregulation of Savings and Loans banks exempted the sector from conforming to Glass-Steagall, which triggered the collapse of S&Ls within a few years. Likewise, after some watering down in the 1980s and 1990s, the full repeal of the *Glass-Steagall Act* in 1999 triggered the flood of mergers and acquisitions and increased speculation that led to the 2008 GFC, and the conundrum of the banks being TBTF.<sup>11</sup>

Presently, Australians are told their deposits in the banks are protected by the Financial Claims Scheme (FCS) up to \$250,000, which covers 99 per cent of all bank accounts, and around 50 per cent of total deposits. However, around 80 per cent of all deposits are in the Big Four banks. This makes the FCS unworkable in terms of those four banks, because the FCS only makes provision for \$20 billion per Authorised Deposit-taking Institution (ADI) to pay out deposits, with the balance to come from a levy on the industry. Given that the Big Four banks each hold around \$400 billion in deposits, of which presumably around 50 per cent, or \$200 billion each, are guaranteed by the FCS, it is obvious that in the event of a collapse of one of the Big Four, the \$20 billion FCS provision won’t be sufficient to pay out the deposits. That means that an industry levy would need to raise \$180 billion, which raises the question: how would it be at all possible for a levy to raise that much money, from the Australian financial system?

If it is claimed that the bank would be put through receivership and its assets sold up and the returns distributed to its creditors, among whom depositors have preference, thus decreasing the amount the FCS would need to cover, that argument downplays: a) the Australian banks’ heavy use of covered bonds, the claims on which come *ahead* of depositors; and b) the likelihood that, given that the Big Four banks are very similar businesses, and have similar over-exposure to a collapse of the housing bubble, a crisis in one will be a crisis in all, raising the prospect of a general banking crash which will annul all ostensible guarantees.

The unworkability of the FCS in relation to the Big Four banks is another aspect of their being TBTF, and requiring a bail-in if they face collapse, so that they never go into a liquidation in which the FCS will be proven inadequate.

The far better, and indeed *only* way to guarantee deposits in all of Australia’s banks is through Glass-Steagall, which separates the deposits from any activity that would put the bank at risk. It is notable that the U.S. Glass-Steagall regime, which also created the U.S. Federal Deposit Insurance Corporation (FDIC),

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<sup>11</sup> *Glass-Steagall Now!* Citizens Electoral Council 2014

enabled commercial banks to hold relatively less capital than otherwise, because commercial banking activity was so demonstrably safe. This allowed for more credit to be directed into economic activity.

Under an Australian Glass-Steagall separation, the Big Four banks and Macquarie Bank would be split up into completely separate retail and investment banks, with different ownership and management. Government guarantees would only cover the new retail banking institutions; the new dedicated investment banks will know they will sink or swim on their own. Experts recommend a transition period, anywhere from two to five years, for the banks to separate, and unwind the derivatives and other investment positions that are connected to the retail part of the bank.

FSI chairman David Murray has already mooted the possibility of ring-fencing the banks, acknowledging the conflict of cultures, and also interests, between retail and investment banking. However, ring-fencing is a fraud. It is the compromise for which City of London bankers lobbied that country's Vickers Commission, in order to deflect the concerted post-GFC push for a full Glass-Steagall separation. Ring-fencing gives the appearance of separation, while still keeping retail banks and their deposits in a vulnerable position where investment bankers in the same group can try to access their capital. Esteemed members of the U.K. House of Lords, including former Chancellor of the Exchequer Lord Lawson, pointed out in a 26-27 November 2013 debate that ring-fencing isn't a sufficient separation, and that investment banks will naturally attempt to get around it; "bankers are extremely adept at getting between the wallpaper and the wall", former investment banker Lord Forsyth of Drumlean declared. Another relevant fact is that U.S. banks were effectively ring-fenced prior to the 1929 stock market crash and Great Depression; it didn't stop them from engaging in the crimes exposed by the 1932-34 Pecora Commission<sup>12</sup>, only Glass-Steagall did. By mooted ring-fencing, Chairman Murray has acknowledged the problem—the FSI panel should recommend the only real solution, a full Glass-Steagall separation.

Australian opponents of Glass-Steagall argue that Glass-Steagall isn't relevant to Australia's major banks, because, apart from Macquarie Bank, investment banking is a much smaller part of their operations than is the case in banking conglomerates in other countries. That may be; however, investment banking is known to be very profitable for the Big Four banks, profitability that the banks are doubtless keen to retain, which reinforces the intrinsic conflict of interests. Moreover, all of the Big Four and Macquarie have been involved in banking scandals in recent years, in which bank-employed financial advisers talked retail customers into buying margin loans and other risky investment products, which cost thousands of Australians their life-savings and their homes. These are largely unresolved scandals for which the banks are yet to be fully held to account. The banks blame the scandals on rogue operators—a laughable defence given the proof that many of these operators were promoted long after they were known to be engaged in these practices—but if the banks were fully separated as per Glass-Steagall, the crimes would not have happened. For example, the U.S. Pecora Commission in 1933 exposed the giant National City Bank for similar crimes involving retail customers being sold risky investments, which became a major catalyst for the passage of the *Glass-Steagall Act*.

This submission differentiates between the broad outlook of the trans-Atlantic economies, and the BRICS nations; however, Glass-Steagall also has enormous support in the U.S. and Europe. There are four bills currently before the U.S. Congress, two in the Senate and two in the House, to reinstate Glass-Steagall. They have widespread public support: last month supporters delivered 600,000 signatures to the Congress endorsing the call for prompt passage of one of the bills, the *21st Century Glass-Steagall Act*. In Europe, many of the national parliaments, including in Britain, Iceland, Italy, Sweden and Switzerland, have considered Glass-Steagall legislation at various stages. The only real opposition to Glass-Steagall is from the banking sector; however, when the next crisis hits, this existing support for Glass-Steagall has the potential

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<sup>12</sup> The Hellhound of Wall Street: How Ferdinand Pecora's Investigation of the Great Crash Forever Changed American Finance, by Michael Perino, The Penguin Press, New York 2010.

to rapidly translate into Glass-Steagall laws, which would turn Glass-Steagall into a general standard worldwide. Unlike bail-in, it would be in Australia's interests to align with that standard.

### **A national bank**

The FSI has identified as one of its nine "priority issues" of inquiry "funding Australia's economic activity". Unfortunately, the Interim Report repeated the tired old myth of Australia's historical dependence upon foreign investment for its funding. Of course Australia, as a colony of Great Britain, has received heavy foreign investment throughout its history, but there were two periods of spectacular exception, which, incidentally, were the periods when Australia was most needy—World Wars I and II.

Australia's economy flourished in both World Wars without foreign investment, because the nation had its own national bank, the Commonwealth Bank. In World War I the Commonwealth Bank harnessed the nation's own internal sources of credit to direct into the war effort and into public infrastructure projects all over the country. By World War II the Commonwealth Bank had acquired all of the credit-creation powers associated with a modern central bank, but under government, not "independent" i.e. private, control. As such it was able to create all of the credit the nation needed for a war effort that was not only crucial to the victory in the Pacific, but transformed Australia's economy, from an agrarian backwater into an agro-industrial powerhouse.<sup>13</sup>

The undeniable success of the Commonwealth Bank in the wars is one compelling reason why Australia should establish a new national bank. It is also essential if Australia is to be a fully sovereign nation, and not under the economic power of foreign creditors, as is the case today. Finally, only with a national bank can the government of the day fulfil its public duty to provide the essential infrastructure of the nation.

The CEC has drafted legislation for a new national bank, called the *Commonwealth National Credit Bank Bill*. It will enable the government to both harness the existing wealth of the nation, such as the \$1.85 trillion in superannuation, and also create credit: to finance large-scale water, power, transport, and communications infrastructure; to finance local council infrastructure; and to invest in productive agricultural and manufacturing industries.

The Commonwealth National Credit Bank (CNCB) must direct finance to public infrastructure and other capital projects with respect to increasing: energy flux density of the technologies of energy production; per capita consumption at a constant or declining cost to the consumer, thus reducing poverty and improving living standards; energy usage per capita; and affect a rise in the actual, as well as potential population density. For example, the CNCB would direct credit into nuclear power generation, fission and fusion in the future, which will increase the energy flux density in the economy. However, the CNCB would not prioritise large-scale funding for solar and wind power which is intermittent and therefore a decrease in energy flux density.

The power of a national bank to function in this way is not in question; instead, opponents, again in the private banking sector, argue ideologically that governments should not have this power. The CEC argues forcefully the opposite: that only governments should have this power, because only governments represent the interests of the people as a whole, the common good. To be equipped to serve the common good, governments must have tools, such as national banks to direct their national systems. (See attached the CEC's draft legislation, *The Commonwealth National Credit Bank Bill*.)

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<sup>13</sup> "A Credit System for Australia: King O'Malley and Australia's National Bank", by Robert Barwick; "'Red Ted' and the Great Depression", by Craig Isherwood <http://cecaust.com.au/credit/>

## Conclusion

The CEC concludes its submission with the following public statement addressed to the FSI, which hundreds of Australian citizens have wholeheartedly endorsed, a sample of whom are included following.

### **Glass-Steagall for the Common Good!**

In response to the call by the Financial Systems Inquiry (FSI) for a second round of submissions, we the undersigned submit the following statement:

The purpose of an economy is to serve the common good of all of the citizens taking part in it. That common good is a moral imperative, which ranks above the supposed rights of a “free market” to rule at the expense of the increasing impoverishment and unemployment of an ever-growing number of Australians. What is the purpose of a “financial system”, if not to serve that common good? Is it just, for instance, or moral that the speculation in derivatives by Australia’s banks led by the Big Four and Macquarie, now exceeds \$24 trillion as against a GDP of only \$1.6 trillion? We do not need more of the same financial deregulation which has helped cause the present crisis, both in Australia and worldwide, nor the “bail-in” of Australian depositors in order to bail-out that worthless \$24 trillion.

Therefore, we as Australian citizens demand the following:

That there be no bail-in of depositors in order to “save the banks”.

That Australia must separate legitimate commercial banking functions from the speculative activities of “investment banks”, as did the Glass-Steagall law in the United States so successfully from 1933 until its repeal in 1999. Such commercial banks serving the interests of the average Australian should be backed by the government, but the speculative banks should be left on their own to sink or swim.

That to anchor such a system of private commercial banks, Australia must also establish a national bank typified by our old Commonwealth Bank, where our government directs credit into the real physical economy of agriculture, manufacturing, and infrastructure projects which provide for the common good, including employment opportunities for all.

In making this submission, we take note of the recent call by Pope Francis for a sweeping reform of the global financial system based upon the “primacy of the human person” rather than the “dictatorship of an impersonal economy lacking a truly human purpose”, and that “it is the responsibility of the state to safeguard and promote the common good of society”.

Whether one holds a professed religious outlook of any persuasion, or is simply a person of good will, those universal principles which emphasise the dignity, worth, and physical well-being of every single human being—in this case every single Australian—must be the basis upon which any financial system must be constructed.

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Jane Silbereisen, Councillor, City of Mitcham, SA

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Peter Harle, Councillor, Liverpool City Council, NSW

Carmel Boyce, Elected Member, Shire of Dardanup, WA

Denzil Sturgiss, Councillor, Goulburn Mulwaree Council, NSW

John Frederick Walker, Councillor, Young Shire Council, NSW

Graham Philp, elected member

Roger Oldfield, Former Councillor, Barcoo Shire Council, QLD

Lynda Cooke, Deputy Mayor Balranald Shire Council, NSW

Keith Dunlop, Deputy Shire President, Hopetoun, WA

Alan Pendleton, Councillor, Blacktown City Council, NSW

Maxine Booby, Councillor, Narrabri Shire, NSW

David Shannon, Emeritus Mayor, NSW

Cr.Paul Rossetto, Councillor on Griffith City Council, NSW

Nathan Hansford, Councillor, VIC

David M Shannon-JP, Emeritus Mayor (Wakool Shire Councillor, 14 yrs), NSW

Wilian Sardinha, AMIEU Central Region Branch Organiser

Noel Connolly, Head of Mission & Culture at the Columban Mission Institute

Rev. Gerard A Ryan CCS, Confraternity of Christ the Priest

Kevin Manning, Emeritus Bishop, Diocese of Parramatta, NSW

Paul William Kelly, catholic

Peter Olney, Founder of BMC Ministries Inc., VIC

Max Goulter, School Chaplain, NSW

Bernadette Baring, Shearwater the Mullumbimby Steiner School, NSW

Jeanette Staehr, Marriage celebrant/Small business operator/grape grower, SA

Barry Fitzsimons, Director - Rise Up Australia Party, VIC

Margaret Bell, Vice President Australian Voice Party

Alan Howard, Family First Candidate, seat of Bendigo in last 2 Federal Elections

Michael Williams, Vice President, Katter's Australian Party, NSW div.

Trevor John Versace, former candidate state/federal elections, Family First, QLD

Farad Yusuf , CPA

Gail Allen, Independent Distributor

Robert Wavell Oakes, Fellow, Ins. Public Accountants

Robert Lemon, Director

Judith Sudholz, Former Candidate for Durak

Mile Stankovic, Poet/ inventor

Rhys Bingley, Electrician and Company Director

Peter Mitranov, Principal

Damien Ashby, Enforcement Officer

Pastor Robert Connors, Heritage Park, Qld

Jane Waller, Business Manager

Peter John Nicholls, Fire Fighter

Robert Bruce Duncan, Professional Civil Engineer & Member of Engineers Australia

Dirk Keizer, Kalima Tree Plantation proprietor

Michael Czajka, PhD Candidate Chemistry, B Bus Accounting, Dip Education, Grad Dip Bus Computing, Dip App Sc Nursing

Philip P Bennett, Director - PQI Enterprises

Myles Griffiths, Service Manager

Aaron Manuell, Managing Director, Hewman Enterprises

Vincent Hayward, Director, MRD Studio

Earle Mason, Business Manager

Harvey Richard Cole, Solicitor

Jim Virtue, Business Owner

Nicholas Robinson, Principal Participant, Revelation Sky Harmony Foundation

Jonathan Heppell, Senior HSE Advisor, Construction, Infrastructure, Civil & Mining Industries

Mark Williams, Director, Focus Financial Group Pty Ltd

Gregory Sellers, Commissioning Engineer, Lituus Pty Ltd

Alan Wilson, Principal

John Campbell, TV Producer, Melbourne Community Television Consortium

John Drain, Arlec Customer Service Technical Supervisor  
Patricia Formosa, Manager, Graceades Community Cottage  
Gary Meachen, Adviser  
Michael McMahon, Financial Analyst  
Peter Barber, Business Owner  
John Hays, Small business owner/proprietor  
Shane Ellis, Business Owner  
Neil Wratten , Small business owner, Qld  
Jim Noonan, Director, FIPA, CFP, SSA,WA  
Ken Gosney, Company Director, QLD  
Brian Fuller, Engineer, VIC  
Barbara Bell, Director, QLD  
Wayne Bell, Director, QLD  
Colin Schwarz, Former District Council Member, SA  
Graham Fletcher, Retired and Carer, VIC  
Michael Tucci, Employee at A.Tomballe Insulations, VIC  
Kim Cartwright, Woolgrower, NSW  
Bryan Edward Hayes, Businessman, TAS  
Frank Zamburro, Financial management, VIC  
Glenn Tandy, Fire Industries, QLD  
David Donkin, Manager, ACT  
Ian Attiwill, Small Business Owner, SA  
Andrew Blanchard, Director of Studio Signs, SA  
Nick Culling, Mechanical Technician, QLD  
Greg Mickan, Small Business Owner, QLD  
Yvonne Douglas, Director, Mount Gambier Jubilee Community Care Inc., SA  
Ross Baker, Sole Trader, Ross Baker Golf, TAS  
Jim Hazzard, Consulting Civil Engineer, QLD  
Aileen Goldthorpe, Captain, Mt. Lindesay Pistol Club  
Laraine Bunt, Owner/Manager Hamilton Heritage B & B, NSW

Frank Karg, Director, Sales Systems In Action Pty Ltd, QLD

Alistair Welch, Business Proprietor, member National Party, NSW

Jim Gundry, Partner, Soundrider Motorcycle, QLD

Scott Crowe, Company Director, VIC

Stephen Harding, Director of Training Professionals, QLD

Mr. Anastasios Koutsikos, Certified Practising Accountant, VIC

Paul Santos, Director, Santos Ready Mixed Concrete P/L, SA

Graeme Scott, General Manager, QLD

Ian Dunnet, Company Director, WA

Jonathan McCarthy, Contract Management, WA

Robert Kirby, Company Director, WA

Mr Warren Stolmack, Private company director, QLD

David Spain, Solicitor, NSW

Allen J Maynard, Consulting Geologist, WA

Henrik Tkacz, Director, NSW

Steve Portelli, Councillor for East Ward City of Cockburn, WA

Amber Gillard, Business Owner, QLD

Paul Hawke, Company Director, WA

Jerry Wilson, Director of Wilandson Nom, SA

Andrew O'Shea, member, Family First

Tom Lawler, Managing Director

Geoff Stallard, Teacher/Councillor

Dr Beverley Drinnan, retired

Michael Ruyg, Registered Nurse division 1

John Carter, Chairman Lake Edward Pty. Ltd.

Trudy Campbell, Sec., Citizens Electoral Council of Australia (NT Division)/RN.RM

Fr. Peter Murphy, Parish Priest Crookwell

**Attachment 1:**

**Memo: The Great Australian Mortgage Bubble**

## Memorandum

# Re: The Great Australian Mortgage Bubble

By Robert Barwick and Allen Douglas

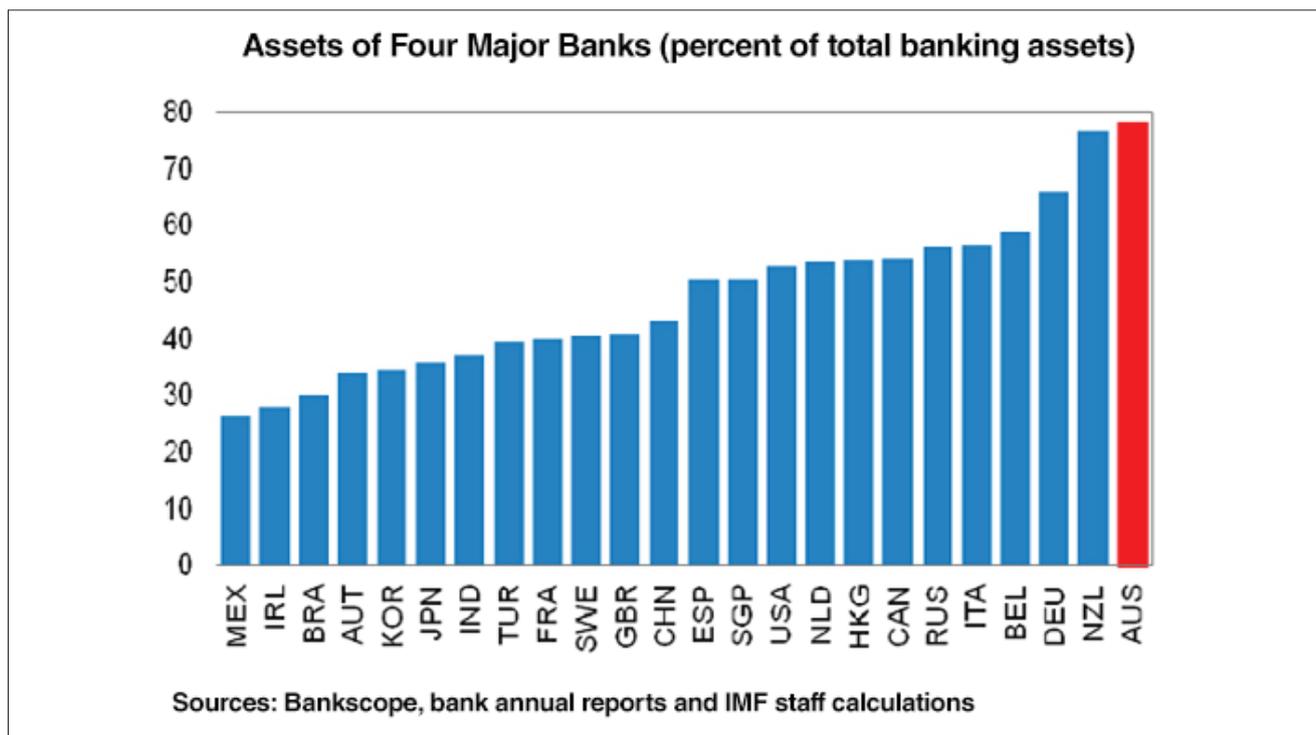
Citizens Electoral Council of Australia

1 March 2014

Australia's "Big Four" banks are intimately tied into the world's London and Wall Street-centred financial system through their combined holdings of \$A23 trillion in derivatives. Thus the Australian financial system could blow at any moment that the inevitable chain reaction starts from London or Wall Street. But, putting that defining reality aside for the moment, even in its own, more narrow terms, Australia's financial system could also explode at any moment because it is built upon arguably the largest mortgage bubble in the world, one which is presently expanding exponentially. Australian legislators have a responsibility to act to save the nation from this otherwise inevitable explosion, and thus must understand, first, that it is a Dutch tulip bulb-style bubble, and second, how to defuse this keg of mortgage dynamite upon which the nation is sitting, through Glass-Steagall and the establishment of a National Bank. The purpose of this memo is to sketch merely some of the parameters of this bubble.

## The Overview

Though Australia is indeed inexorably linked with the London/Wall Street globalist speculative-centred monetary system, for historical reasons it has certain unique characteristics of its own, which date from the way in which the financial deregulation process was carried out here following the end of the Bretton Woods fixed exchange rate system on 15 August 1971. In brief, it is probably the world's single most concentrated financial system, which itself sits on top of the worst mortgage bubble in the world, centred in our "Big Four" banks: Commonwealth Bank of Australia, the ANZ Bank, Westpac, and National Australia Bank.



<http://www.whocrashedtheeconomy.com.au/blog/>

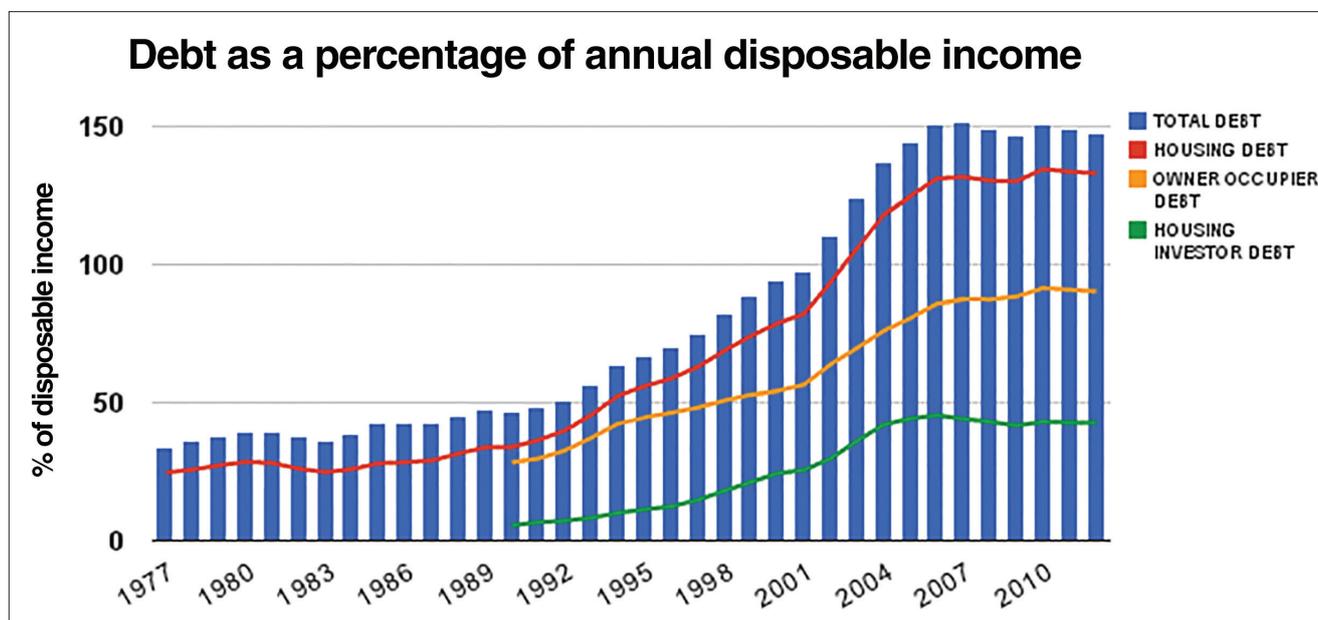
Australian financial and political figures proclaim the Big Four to be "some of the safest banks in the world". Many of them actually believe that, also because that same line is frequently echoed elsewhere in the world. Most of this reputation of "safest" arises from the supposed fact that the Big Four were ostensibly in no danger of melting down during the 2007-08 Global Financial Collapse, unlike banks everywhere else in the world. That is utter nonsense. In fact, they would certainly have collapsed had not the government stepped in over the weekend of 11-12 October 2008 to provide them (and their sister Macquarie Bank) government guarantees for all of their deposits and

for their huge foreign borrowings, which latter they were otherwise not able to roll over when the international credit markets seized up in the wake of the Lehman Brothers collapse in September 2008.

Each of these Big Four ranks among the world's top fifty largest banks, and have been named Globally Systemically Important by the Bank for International Settlements (BIS). As for the CBA, "In May, analysts at UBS said the Commonwealth Bank of Australia was the most expensive large bank in the world by nearly every standard valuation measure. The bank's shares closed at \$73.82 on Friday." [Kehoe, *Australian Financial Review* article, see reference below]. The CBA also happens to be the most heavily invested of the Big Four in the mortgage bubble. In 2012 it suddenly stopped disclosing its skyrocketing derivatives exposure. The twin realities of heavy mortgage, and heavy derivatives exposure are not surprising: the overwhelming amount of the Big Four's \$A23 trillion in derivatives are in currency and interest rate swaps, taken out to "insure" their heavy overseas borrowing for the purpose of pouring those funds into the domestic mortgage market, as noted below. Thus, were the Australian mortgage bubble to pop, that by itself could easily blow out the entire world's financial system. Note that "the market capitalisation of the Australian banks has swelled from 2 per cent of the global banking index to 14 per cent over the past decade." ["Wall St's latest worry: Australian banks", *Australian Financial Review*, 16 September 2013, John Kehoe.]

Reflecting the growth of this mortgage bubble over the past three decades, Australians now have either the highest or second highest ratio of household indebtedness to disposable income in the world, depending on whose figures one looks at. A paper by Reserve Bank of Australia economist Michael Davies ("Household debt in Australia") observed a staggering rise already before 2007, and it has worsened since:

"During the 1980s, the ratio of debt to disposable income for Australian households was fairly stable at around 45%. But since 1990, this ratio has risen rapidly, reaching 157% in December 2007. Housing debt accounts for the bulk of the increase, with the ratio of housing debt to disposable income rising from 31% to 134% over the period. ... Many advanced economies have witnessed a large rise in household indebtedness over the past two decades. However, the increase in Australia has been particularly pronounced. The ratio of household debt to income in Australia went from being one of the lowest in the advanced economies in the late 1980s to one of the highest in December 2007."



Source: "Fretting about mortgage debt?" 12 April 2013 Author: Jodi Bird  
<http://www.choice.com.au/reviews-and-tests/money/borrowing/your-mortgage/mortgage-debt.aspx>

Unlike Americans, Australians cannot merely walk away from mortgages they can no longer pay, because the banks are allowed to garnishee their salaries/wages until the full mortgage is paid. We are, truly, debt slaves. Only declaring bankruptcy discharges Australians of their mortgage obligation.

Moreover, with the sharp collapse in the "mining boom", and the recent closure of major manufacturing industries, including oil refineries, food processors, aluminium smelters and the announced shutdown of Australia's entire car manufacturing industry by 2016, an estimated 100,000 people or more will be thrown out of work, many

perhaps even most of whom, presumably, will no longer be able to meet their mortgage payments. The Abbott government has ostentatiously chosen not to extend help to these industries, even as they pour assistance into the “finance sector”, with much more planned via the FSI.

For many years now, the Big Four have borrowed massively from overseas; some 30-40 per cent of all their liabilities derive from the overseas wholesale funds market. As is almost universally acknowledged, they borrowed so heavily from that market, close to \$900 billion at the peak prior to 2008, for only one reason—to pour the funds into the domestic home mortgage bubble. Australia has a \$5 trillion residential property market. The Big Four hold some 83 per cent of all mortgage loans in that market, and these loans constitute the majority of their entire loan book. Australia’s financial regulator, the British-modelled Australian Prudential Regulatory Authority (APRA), allows the banks to hold a mere 2 per cent of reserves against these mortgages, compared with much higher reserves it demands from loans to agriculture or to industry, through the ruse of “risk-weighting” capital. (In fact, the more that property prices inflate, the less capital APRA demands that they set aside against those mortgages.) That of course, provides a built-in motivation for them to lend for mortgages at the expense of the real economy—but such APRA regulations were constructed in the first place to support an already existing property bubble.

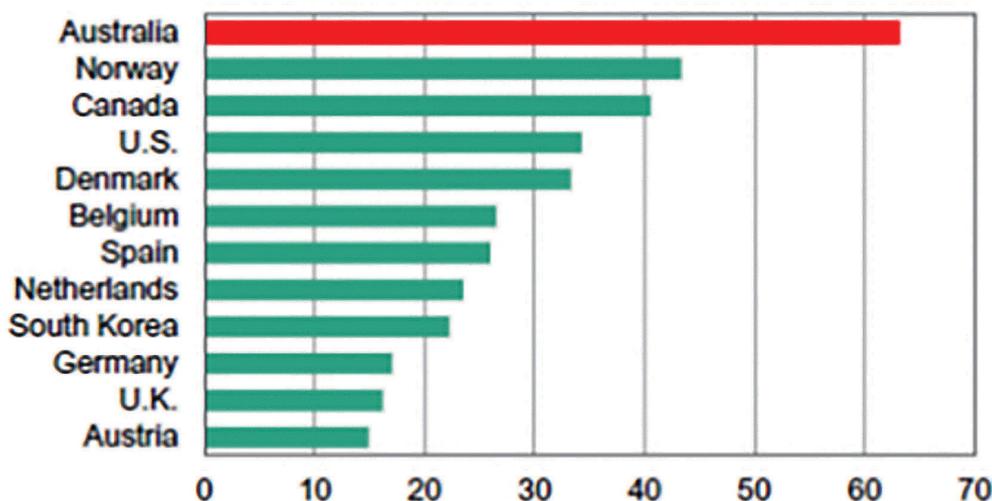
Additionally, the Reserve Bank of Australia has now set its base interest rate at 2.5 per cent—the lowest in sixty years—precisely in order to facilitate this mortgage process, to encourage more people to pour into that market. Lawfully, the Big Four’s lending into the property market has taken on such steam in the past year or two, that there is even an ongoing public debate in the news media on whether Australia now has a “property bubble”. The Australian government, notably through Treasurer Joe Hockey, has loudly proclaimed that “there is no such bubble, Australian houses are the largest in the world, they have unique characteristics”, etc. etc. But the very fact that such an intense debate is under way, is itself clear evidence that such a bubble does exist and is gathering speed by the moment.

### The bubble accelerates

Over the past 12 months, for instance, Sydney has seen an 8.5 per cent rise in property prices, Perth with 7.5 per cent and Melbourne with 6 per cent. An 18 January 2014 article in *The Australian* titled “Low-doc loans back in play” provided clear evidence of the bubble taking off:

“High-risk, no-deposit home loans and low-doc loans—so-called ‘liar’s loans’ are re-emerging in the heated property market, raising concerns over lending standards. With first-home owners and aspiring investors locked out of the market due to soaring prices, lenders are again offering loans covering up to 99 per cent of a property’s purchase price, while others are spruiking loans where borrowers ‘self-certify’ their own income. ... Several lenders are offering loans requiring 1 per cent deposits or less, while some are advertising loans which cover 106

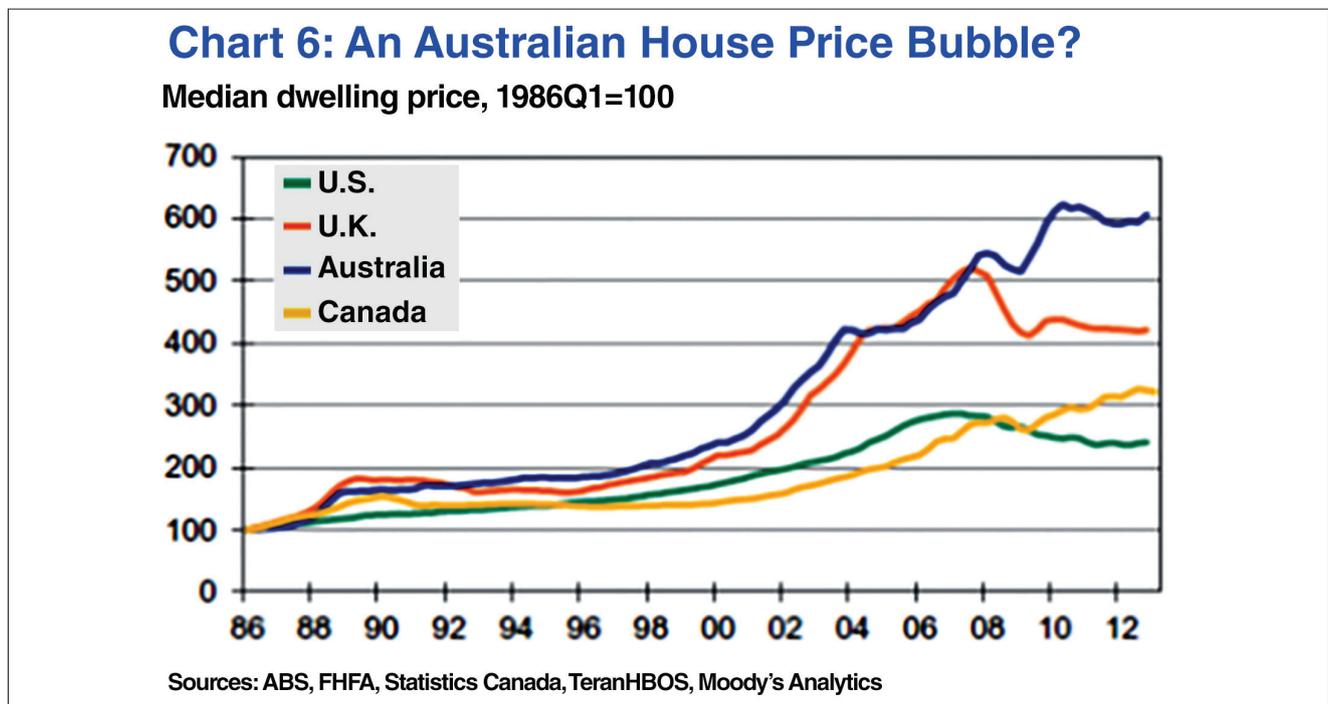
**Chart 5: Aussie Banks Mortgaged to the Hilt**  
Residential real estate loans to total loans (latest available data), %



Sources: IMF, Moody's Analytics

per cent of a property’s purchase price. The major lenders have loosened lending standards in recent years, with most offering loans providing 95 per cent of a property’s purchase price, with a number of providers, such as RAMS, offering 97 per cent, after including lender’s mortgage insurance. However, other lenders are avoiding the requirement for a deposit almost altogether, by coupling home loans with large-balance credit cards.”

Already on 18 May 2011 Moody’s had downgraded the credit ratings of the Big Four, noting that the decade prior to 2008 had seen a 150 per cent rise in property prices, which had pushed Australia’s household debt to annual income to 159 per cent by mid-2010—a higher level than the U.S., U.K. and Spain at the peak of their housing cycles.



In 2013, \$26 billion of Australian Residential Mortgage-Backed Securities (RMBS) were issued, more than double that of 2012. [“Japan enters Aussie mortgage market”, which notes that Bank of Tokyo-Mitsubishi “has launched the first major salvo by a Japanese bank into the Australian mortgage market, extending a \$500 million one-year mortgage-backed facility to AMP Ltd.” —Source: [www.macrobusiness.com.au](http://www.macrobusiness.com.au), 26 November 2013.]

Let us look briefly at the history of the creation of this bubble, in order to further appreciate how the entire Australian financial system has been constructed upon it over the past three decades or more, and why ever more desperate and blatant measures have been taken in recent years to keep pumping air into it, under the clear recognition that it will otherwise most certainly pop. In fact, a chief proclaimed rationale for the Financial System Inquiry (FSI) established last year and now under way is to conduct a “once every several decades root-and-branch review of Australia’s financial system”, to figure out ways to “increase funding to the banks”, in order to decrease their dependency on borrowing overseas. The FSI is dominated by private bankers, beginning with chairman David Murray, former chairman of the Commonwealth Bank from 1992 to 2005 when its derivatives holdings exploded, and one of its leading members, Ken Henry, a former Treasury Secretary and private banker, who played a decisive role in propping up the bubble as Treasury Secretary from 2001-11. A second major rationale for the FSI is to revamp state and federal regulations of all sorts, including such minimal regulation of Australia’s financial system as still exists, in order to finance a speculative boom in infrastructure construction.<sup>1</sup>

1. “Infrastructure, infrastructure” is the mantra chanted every day by Australia’s present Liberal Party/National Party government. Prime Minister Tony Abbott has said that he wants to be known as “the Infrastructure Prime Minister”, while Treasurer Joe Hockey has taken the point as chairman of the G20 Finance Ministers this year, to lead a crusade for an internationally-agreed series of regulatory changes to facilitate new infrastructure, one which mirrors completely the efforts of Europe’s Long Term Investors Club (LTIC) over the past several years. The line is “Governments don’t have money, they can’t finance infrastructure anymore, so we have to change any and all existing regulations, risk evaluations, etc. in order to allow the private sector to take the lead in building this infrastructure, with the necessary backup by governments”, notably on the “Public-Private Partnership” model trumpeted by the LTIC. In practice, Abbott and Hockey intend to privatise whatever has not been already privatised of federal government assets, and to force the states to also privatise everything which has not already been sold off. The funds from those forced sales are then to be reinvested in “new infrastructure”, with massive fees flowing to the investment banks arranging these deals, and the returns guaranteed by “user-pays”—slapping tolls on all new roads, or any other kind of infrastructure.

Another unique facet of the Australian financial system which is important to understanding its mortgage bubble is the “superannuation industry” established by Australian Labor Party (ALP) Prime Minister Paul Keating in the 1990s. Thanks to “Super”, Australia now boasts the second or third single largest pool of liquidity in the world, some \$1.7 - \$1.9 trillion.<sup>2</sup> All of that money has to be invested somewhere, and much of it is invested in the stocks of the Big Four banks, which comprise an astonishing one-third of the entire Australian stock market (one-half trillion dollars in all—*Australian Financial Review*, 15 November 2013, George Liondis), the same Big Four whose record-setting profits this year are based upon the mortgage bubble.

In November 2013, a UBS report concluded that the high amount invested by Australians—mainly through their super—in banks, shares, bonds and other securities was a potential “concentration risk”. “We believe that the concentration risk to bank securities is more significant in Australia than other areas of the developed markets”, UBS analysts Jonathan Mott and Chris Williams wrote in the report. UBS said investments in shares and other securities linked to the Big Four banks accounted for 21 per cent of all household wealth in Australia outside housing and deposits and that Australians had a further \$762 billion in deposits at the Big Four. They asked, “Is it appropriate that 21 per cent of their net worth outside housing deposits is invested in four highly correlated banks? Will this become an increasing concern for fund trustees and financial planners? Further, given the Australian banks are highly leveraged to the property market, on a look-through basis this further increases the concentration of household net worth to residential and commercial property.”

An increasing share of Super is also being pumped into the domestic mortgage market, especially through Self-Managed Super Funds (SMSF), of which there are 439,000 holding \$421 billion, or about one-third of the entire superannuation pool. [News.com.au 21 March 2011, Anthony Keane] (Aside from their own funds, these SMSF’s have been allowed since 2007 to borrow heavily to invest in property (typically 65-70 per cent of the property value), and in the past two years the percentage of property held in such SMSF’s has typically risen from 50 to 80 per cent.) The rest of that pool outside of the SMSF’s is managed by “professional fund managers”, invariably former investment bankers for JPMorgan Chase, Deutsche Bank, and their cohorts from the other London/Wall Street TBTF banks. It would appear that the ongoing FSI intends to loosen present regulations on “Super”, to allow much more of it to be channelled into RMBS. That would certainly be one tried-and-true way of “ensuring more funding to the banks.”

Australia’s mortgage bubble, and the role of that bubble as the base upon which the entire Australian financial system rests, was initiated in the late 1970s by the Australian arms of the elite, London-centred Hill Samuel Bank and the even more elite Schroders Bank, through Schroder’s Australian subsidiary Darling & Co. But unlike what happened in the rest of the world during 2007-08 when some of the air was temporarily let out of the mortgage bubble in the U.S. and elsewhere through the “subprime crisis”, that never really happened in Australia. In fact, the Australian government and financial authorities took measures to expand the bubble even more rapidly, while conspiring to cover up the reality of mass defaults on mortgages by simply holding onto the vacant houses and pretending they didn’t exist, even as many thousands of Australians were forced onto the streets. The bubble was so central to the entire Australian financial system even then, that if any air were let out of it, the whole system would have blown to smithereens. Bespeaking the growing hysteria over the past couple of years that this mortgage bubble could pop, note just a couple of the desperate measures that governments, both the preceding Labor government (2007-13) and the present Coalition government have taken, again keeping in mind that additional, perhaps even more dramatic such measures will result from the present FSI.

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2. As federal Shadow Treasurer in the late 1970s and early 1980s before becoming Federal Treasurer under PM Bob Hawke in 1983, Keating became the protégé of the top names in the British Crown-centred international minerals cartel around Rio Tinto, BHP Billiton, etc. Early on, and then during his own stint as Prime Minister from 1991-96, he openly proclaimed that he intended to let agriculture or industry live or die on their own (after pulling down most protective tariffs) and instead to turn Australia into a giant raw materials quarry. He also proclaimed his intent to create an “Antipodean Venice” in Australia—a world leading “financial industry”, to replace agriculture and industry. (See pp. 67-72 of the CEC’s *Glass-Steagall Now!* pamphlet for Keating’s intentions, and for the history of the disastrous financial deregulation since the 1970s, of which the present Financial System Inquiry is the next phase.) Now that Australia’s China-centred “mining boom” is slowing down, and under the new Liberal/National Coalition government, there is more of an emphasis than ever on expanding the “finance sector” as the lynchpin of Australia’s economy.

1) The overall suite of measures was summarised in 2010 by then Opposition Treasurer, now Treasurer, Joe Hockey. The CEC reported his summary in a 29 November 2010 press release headlined, “Joe knows the banks are stuffed, but only the CEC will act”:

Mr Isherwood referenced Hockey’s fairly dramatic 22 November Canberra press conference, when the Opposition Treasurer very soberly stressed, “I think 2011 is going to be a very challenging year in global markets and I think, as I’ve said in Parliament, you will see a tsunami of government debt hitting the markets over the next 12 months. Australian financial institutions are amongst the biggest borrowing banks in the world for their size. *I say again, Australian banks are amongst the biggest borrowing banks in the world for their size, and Australia is a massive importer of money.* Now, if there is a huge demand for money offshore, with all these governments rolling over their paper and the private sector rolling over its paper, it’s going to create real challenges for the cost of funds in Australia, and it may mean higher interest rates again. So let’s prepare now.” [emphasis added]

In an *Australian Financial Review* column that day, Hockey also highlighted the extent to which Australia’s private banks were dependent upon government support:

- Australian taxpayers are guarantor for more than \$850 billion worth of the banks’ liabilities—\$690 billion in deposit guarantees and \$163 billion in overseas borrowings guarantees;
- The Reserve Bank of Australia has pumped in \$43 billion in very favourable loans;
- \$16 billion worth of mortgage-backed securities has been purchased by the Commonwealth Treasury, to prop up smaller lenders, using the excuse of promoting “competition”.
- His conclusion? “... we have world-class banks and a very good financial system.” !!!!!

[end CEC press release]

2) On 12 December 2010, ALP Federal Treasurer Wayne Swan announced that he was introducing legislation to allow the Big Four for the first time ever to sell “covered bonds”, and legislation to do so was duly passed in 2011. Covered bonds have long been used in Europe, but never before in Australia. The bonds are basically residential mortgage backed securities, but even though they are sold, the underlying mortgages are kept on the Big Four’s books. Thus, in the event of a default on the bonds, the buyer has access not only to the underlying mortgages, but to any and all other assets of the bank—the definition of “covered”. In other words, covered bonds are ranked above all other bank creditors, including individual depositors—a gross violation of the cornerstone *Banking Act 1959* upon which Australia’s present financial system still basically rests.

The covered bond legislation allowed for the Big Four to sell up to 8 per cent of their total assets in such bonds, a total estimated by the government to be \$130 billion. Swan pledged that the government would buy \$4 billion of those bonds immediately. In 2012 Australia’s Big Four collectively dominated the world in covered bond sales with CBA selling the second largest total in the world.

3) The government through the Reserve Bank is now creating a \$380 billion Committed Liquidity Facility (CLF), an institution which Australian financial specialists report to be unique on the planet. Its purpose is to allow the Big Four to dump their RMBS into the CLF in return for liquidity at dirt-cheap rates, to satisfy Basel III capital requirements, but actually to keep pumping air into the bubble lest it pop. In addition, the chief vehicle used by the Big Four in the Reserve Bank of Australia’s repo market, are of course RMBS.

Aside from these measures, Australia has long had a tax incentive for property investors, called “negative gearing”. Individual property investors can claim any ongoing losses from an investment property off their income tax. This is such an incentive to buy investment properties, that out of 23 million Australians, as of 2011 nearly two million owned investment properties, and that year they claimed losses off their tax of \$13 billion—a large amount by Australian standards.

## The history, briefly

The following is a summary chronology of merely some of the highlights of the expansion of Australia's mortgage industry, to demonstrate the almost uninterrupted expansion of that bubble since its original creation, into today.

1999: Treasurer Peter Costello introduced a 50 per cent discount on capital gains tax. At the time the welfare lobby group, the Australian Council of Social Service, warned it would create a property bubble. Within a short time they were proven right.

2000: Howard-Costello government announced a \$7,000 grant for first home buyers. The same year, Australian banks and mortgage brokers started issuing so-called "low-doc" and even "no-doc" loans, for people without normal credit histories. These loans were only 1 per cent of the total in 2000, but by 2008 such lending had increased to 20 per cent—Australia's version of sub-prime lending.

2003: *The Age* newspaper's economics writer Tim Colebatch reported on 8 July that the implications of the rapidly-growing housing bubble were understood at the highest levels. In an article called, "Why Costello should scrap negative gearing", Colebatch wrote, "As Reserve Bank governor Ian Macfarlane told the parliamentary economics committee last month, the main threat to the economy is the unsustainable growth in home lending and house prices. In six years, our after-tax income per head has risen 27 per cent. But average house prices have risen 85 per cent, and our housing debt has doubled to almost \$400 billion. ... But the biggest risk is that a bust in home prices will bring down the economy."

2006: Treasurer Peter Costello allowed self-managed superannuation funds to invest in property, and to borrow to invest in property.

2007: Banks started foreclosing on home owners in large numbers, throwing a lot of families onto the street. But house prices only declined marginally. It was later demonstrated that the banks sat on an enormous number of empty properties, refusing to sell, knowing such large-scale selling would crash prices.

2008: In the global shock following the collapse of Lehman Brothers, the Australian government sprang into action to avert a collapse of the property bubble, knowing it would cause the banks to crash. They guaranteed the banks' overseas borrowings, which they needed to keep lending into the local market, and on 14 October 2008 the government boosted the first home buyers grant. The First Home Owner Boost (FHOB) was announced, one month after Lehman Brothers filed for bankruptcy. For first home buyers purchasing an existing dwelling, the FHOB was a \$7,000 boost to the existing \$7,000 first home buyers grant introduced on 1 July 2000. An estimated 200,000 buyers took up the offer within the next year. Additionally, the government changed the requirements by the Foreign Investment Review Board, to allow temporary residents to purchase real estate in Australia without having to first gain approval from the FIRB. This boost was plainly not to make housing more affordable for home buyers, but to push up prices, which the CEC exposed in this press release:

CEC press release, 27 September 2010:

### **Rudd-Gillard increased home owners grant to make housing more expensive.**

First home buyers of the past two years have been bled—by their own government.

When the First Home Owners Grant was increased by the Rudd-Gillard government in October 2008, the public was told it was to support construction, and make housing more "affordable". ...

As revealed—but only in passing—in the June 2010 book *Shitstorm* by *The Australian's* Lenore Taylor and David Uren, on the weekend of October 11-12, 2008, when Australia's financial system was on the brink, an emergency meeting of the Rudd government's Strategic Priorities and Budgetary Committee (SPBC)—Rudd, Julia Gillard, Wayne Swan and Lindsay Tanner—which included Treasury Secretary Ken Henry and Reserve Bank Governor Glenn Stevens, decided as one of their courses of emergency action to support the housing market, *to reverse the slight fall in house prices and get them rising again.*

How? *By increasing the First Home Owners Grant.* Use public funds to induce buyers to overcome their natural prudence and rush into the market, to drive up prices—which it did, by around triple the size of the increased grant. In other words, the worsening affordability of housing that occurred as a result of the increased grant wasn't an unintended consequence, *it was the aim.*

Taylor and Uren report, “Treasury’s analysis had shown that, far from helping first home buyers get into the market, most of the benefit went to the people selling them their first homes, as the additional few thousand dollars was added to the price. ‘One of the risks in the Australian economy—and we saw it playing out in the U.S. and elsewhere—was the risk of house prices falling sharply. One of our concerns about the option of the first home buyers scheme is that *it gets house prices up and that was the point.* In that week, we found ourselves quite comfortable with it for that reason. You’re in a situation where bidding up house prices is not a negative,’ [Ken] Henry says.” [Emphasis added.]

It was that same weekend that the government propped up the banks with the twin guarantees—of deposits and of foreign borrowings—because the banks pleaded if they didn’t, “they would be insolvent sooner rather than later” (*The Great Crash of 2008*, by Ross Garnaut and David Llewellyn-Smith).

But equally crucial to propping up the banks, was supporting their loans into the property bubble, for which most of the enormous foreign debt of Australia’s banks—over \$800 billion, of which over \$400 billion was on 90-day-terms—was incurred. ...

### **Summation**

With such massive government aid to the residential housing markets, why so little aid to manufacturing and agriculture, which have been in dire crisis for at least a couple of decades? Because the entire financial system does not rest upon them, as it does upon the Big Four’s dealing in RMBS.

**Attachment 2:**

## **The Commonwealth National Credit Bank Bill**



# Commonwealth National Credit Bank Bill



# Introduction

The proposed *Commonwealth National Credit Bank Bill* (CNCB Bill) contained herein was first published by the Citizens Electoral Council in 1994.<sup>1</sup> In 2001, as the physical economies of both this nation and the world continued to collapse, we republished it in our book, *What Australia Must Do to Survive the Depression*, whose third printing in May 2006 appeared well over a year before the Global Financial Crisis erupted in 2007. The American statesman and economist Lyndon H. LaRouche, Jr. had long warned that a world financial crash was inevitable as long as the “globalist” policies of floating exchange rates, free trade, and deregulation prevailed.

Now, a new, even more deadly GFC is roaring down upon us, precisely because of the triumph of these policies. The world’s City of London and Wall Street-centred financial system is far more unstable than it was even in the nail-biting days of 2007-08, as evident in the explosion of world derivatives since then to some \$1.5 quadrillion today. This new legislation, therefore, is not simply a “good idea”; without it, our nation will not survive. Our manufacturing and agricultural sectors have been gutted by the globalist policies embraced by both Labor and the Coalition since the Hawke/Keating “reforms” beginning 1983, while crucial infrastructure has either been degraded through privatisation and neglect, or just not built. Those policies have also made our Big Four banks ground zero in the greatest bubble in Australia’s history, with their \$23 trillion in derivatives constructed purely upon statistical fakery and hot air. In fact, they would have certainly collapsed during 2007-08, when their derivatives totalled only \$14.2 trillion, had our government not heeded their hysterical pleas and bailed them out, along with the equally bankrupt Macquarie Bank.

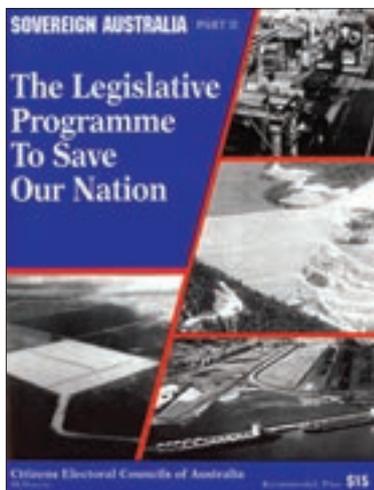
Australia’s banking system, like that of other nations, must be put through government-supervised bankruptcy proceedings pivoted upon a Glass-Steagall-style separation of legitimate banking activity connected to the real economy, from the risky, speculative activities typical of investment banks. The much shrunken remains of these banks

must then be subordinated to a new national bank as specified in the following legislation, which is modelled on King O’Malley’s original vision for the Commonwealth Bank. Only such a government-controlled institution functioning for the Common Good has both the intention—as well as the ability—to issue the masses of new credit necessary to revive our physical economy.

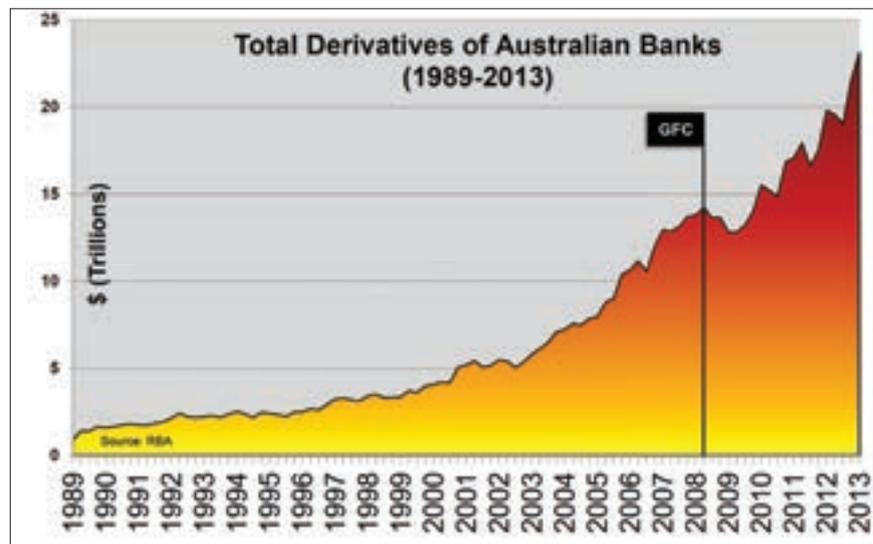
There is nothing in the CNCB bill beyond the comprehension of a concerned citizen or conscientious Member of Parliament. To a greater or lesser degree, all banks, whether central, private, or national banks, create credit. The question is, “who controls the volume of that credit, and towards what end?” For private speculation, as at present? Or, for the expansion of the physical economy and well-being of all citizens of the nation? The former constitutes a privately-controlled *monetary* system, whose focus is merely “money making money”, while the latter constitutes a publicly controlled *credit* system, which is dedicated to expanding the nation’s physical economy, thereby providing for the Common Good.

## The U.S. precedent

Our original Commonwealth Bank was modelled upon the phenomenally successful First and Second National Banks of the United States (1791-1811; 1817-36). Created upon the design of President George Washington’s Treasury Secretary Alexander Hamilton, these had enabled the U.S. to pay off its staggering Revolutionary War debts, and to launch the explosion in agriculture, manufacturing, and crucial infrastructure projects such as roads, canals, and railroads, which both unified the young nation and soon ranked it among the world’s great powers. The Second National Bank was shut down by the City of London and its Wall Street flunkies, but President Abraham Lincoln revived national banking during the 1861-1865 U.S. Civil War against the British-backed Confederacy, typified by his issue of “greenbacks”. This enabled the Union to prevail, and Lincoln to launch the construction of the first Transcontinental Railroad even as the war still raged.



1. *Sovereign Australia II: The Legislative Programme To Save Our Nation*.



In the 1930s, President Franklin Delano Roosevelt once again revived the principle of national credit to finance the great infrastructure projects and related measures which brought the U.S. out of the Great Depression, and created the “Arsenal of Democracy” essential to the Allied victory over Fascism.

### Our Commonwealth Bank

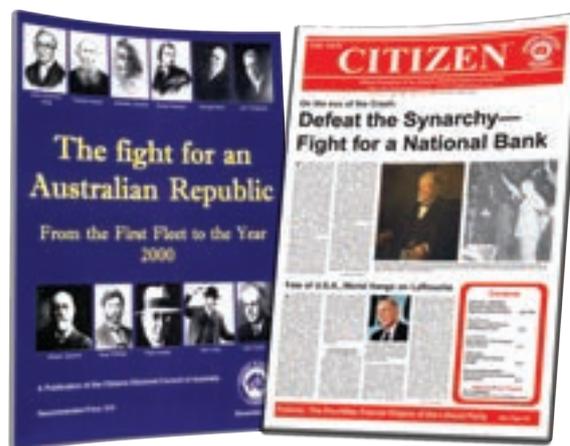
In a 1909 speech to Parliament, Commonwealth Bank founder King O’Malley proclaimed the model he intended to emulate: “I am the Hamilton of Australia. He was the greatest financial man who ever walked the earth, and his plans have never been improved upon ... The American experience should determine us to establish a national banking system which cannot be attacked.”

O’Malley fought tirelessly for a national bank of “Deposit, Issue, Exchange and Reserve”—a government bank with all of the powers of a trading bank (deposit, exchange), and a “central bank” (note issue, reserve). Though fierce opposition from our City of London-controlled financial establishment had limited its powers to essentially that of a government-owned trading bank, founding Commonwealth Bank governor Denison Miller announced to his staff on the bank’s general business opening day in 1913 that the new bank would nonetheless be a mighty institution: “The Bank is being started without capital, as none is required at the present time, but it is backed by the entire wealth and credit of the whole of the Commonwealth of Australia.” That is, the bank’s security, its capital lay not in some horde of “money”, but in the physical human and natural resources set into motion by its extension of credit.

When the usual flow of foreign finance and investment from the City of London into Australia dried up during World War I, the Commonwealth Bank stepped into the breach. Among other things, it averted a run on the private banks; it organised the financing of the war, including the emergency purchase of a national shipping fleet; and it financed pools of agricultural commodities so farmers could be paid to keep producing for the national war effort.

Former NSW Treasurer and Premier Jack Lang recounted in his book *The Great Bust*, that the wartime success of the Commonwealth Bank had terrified the City of London because it threatened to break their control over Australia: “Denison Miller had gone to London after the war finished and had thrown a great fright into the banking world by calmly telling a big bankers’ dinner that the wealth of Australia represented six times the amount of money that had been borrowed, and that the bank could meet every demand *because it had the entire capital of the country behind it...* A deputation of unemployed waited on him after he arrived back from London at the head office of the Commonwealth Bank in Martin Place, Sydney. He was asked whether his bank would be prepared to raise another £350 million for productive purposes. He replied that his bank was not only able to do it, but would be happy to do it. Such statements as these caused near-panic in the City of London.” (Emphasis added.)

The London-controlled private banking interests in Australia seized control of the Commonwealth Bank fol-



lowing Miller’s death in 1923 and restricted its issuance of credits, consequently plunging Australians into needless misery during the Great Depression.

But then, during the perilous early days of World War II, Prime Minister John Curtin and Treasurer Ben Chifley gave the Commonwealth Bank complete authority over the private banks, and the power to create enormous masses of credit. Directed into the physical economy, this avalanche of credit transformed our nation from an agrarian backwater into a high-technology, agro-industrial powerhouse with a world-class machine tool manufacturing sector which contributed decisively to the Allied victory in the Pacific.

Faced with the great tasks of postwar reconstruction, Prime Minister Ben Chifley’s ALP in 1945 passed legislation to make the Commonwealth Bank’s wartime powers permanent. Our anglophile High Court overturned that legislation, and then the Privy Council in London overruled Chifley’s decision to nationalise the banks towards the same end. When Robert Menzies took office in 1949, he set out, at the behest of the private bankers who owned him, to emasculate the Commonwealth Bank, and with it, Australia’s development potential.<sup>2</sup> He scrapped most of Chifley’s planned Post-War Reconstruction projects, and blocked the Commonwealth Bank from funding the only post-war project that was built, the Snowy Mountains Scheme. In 1959, Menzies stripped the Commonwealth Bank of its central banking powers by creating a separate Reserve Bank of Australia. What was left of the Commonwealth Bank continued as a publicly-owned trading and savings bank until Paul Keating and John Howard privatised it in three tranches between 1991 and 1997.

The Commonwealth Bank was disbanded not because it was a failure, but because its stunning success posed a mortal threat to the City of London and their local satraps’ control over Australia. The Bank’s performance, especially during 1942-45, provides the clearest demonstration that a national bank is essential to the well-being of the nation as a whole. Today, as Australia once again teeters on the edge of disaster, the Commonwealth National Credit Bank will restore to the Australian people the full blessings of national banking—the cornerstone of national sovereignty.

Craig Isherwood  
National Secretary  
Citizens Electoral Council

# A New National Bank

In 1994, following extensive discussions with Mr. LaRouche, the CEC composed draft legislation to re-establish the Commonwealth Bank as a national bank, with expanded powers and functions along the lines originally envisaged by King O'Malley first, and then by John Curtin and Ben Chifley. A summary of the draft bank bill is followed by the draft legislation itself.

## Summary:

A national bank dedicated to fostering the growth of the nation's physical economy is the cornerstone of national sovereignty. Beginning with the Commonwealth of Australia Constitution Act in 1901, and then the *Banking Act 1959* and the *Reserve Bank Act 1959*, it is clear that Australia was never intended to break free of the colonial yoke. By these laws, the Queen's representative, the Governor-General, is granted awesome powers:

- Section 56 of the Constitution gives the Governor-General total control over the appropriation of revenue or of money, by specifying that no revenue or money bill may be enacted or even debated without the Governor-General's prior written permission delivered to the Parliament on the day.
- The Reserve Bank Act grants the Governor-General the right to appoint the governor of the Bank, and thus to control all Reserve Bank policy.
- Part 2 of the *Banking Act 1959* gives the Governor-General the absolute power to issue Authorities for the conduct of the business of banking, the application of any conditions attaching to such Authorities, and the power to determine the criteria and financial standing of an applicant for an Authority to become a bank.
- Part 3 of the *Banking Act* gives the Governor-General power to impose a trade embargo on all exports from, and imports into, Australia. In addition, the absolutely untrammelled extent of his/her powers is specified in Section 39 of that Act. Note the italicised words in the concluding phrase of this section itemising his/her powers to make regulations:

39. (1) Where the Governor-General considers it expedient to do so for purposes related to:
- (a) foreign exchange or the foreign exchange resources of Australia;
  - (b) the protection of the currency or the protection of the public credit or revenue of Australia; or
  - (c) foreign investment in Australia, Australian investment outside Australia, foreign ownership or control of property in Australia, or of Australian property outside Australia, or Australian ownership or control of property outside Australia, or of foreign property in Australia; the Governor-General may make regulations, *not consistent* with this Act, in accordance with this Section (emphasis added).

In other words, even though this Act grants the Governor-General all-sweeping powers, they can in addition do whatever they like, regardless of what is specified in this Act!

So far as possible (that is, without constitutional changes), the Commonwealth National Credit Bank Bill (CNCB) strips the Governor-General of these arbitrary powers. Since the new CNCB will be clearly acting in the nation's best interests, should the Governor-General choose to exercise his/her powers under Section 56 of the Constitution to thwart the will of the Parliament in establishing the new Bank, or in the Bank's functioning, a political crisis will follow in which the Governor-General will be exposed for the colonial dictator he/she really is, and can thus be defeated.

The CNCB bill repeals the *Reserve Bank Act 1959*, completely replacing it. It amends the *Banking Act 1959*. In particular, it removes the Governor-General's powers and grants them to the board of the new Bank. It establishes a Bank which is responsible to Parliament, instead of to the private individuals who currently run the Reserve Bank, and mandates, by law, the Bank to function in such a manner as to cause a rise in Australia's "potential population-density" through a "rise in the physical output of the nation" and in "the rate of introduction of new technologies into the economy." Precise measures to calculate such rises are specified, so that

the Bank has no choice, but to so function, or an investigation is mandated.

All new credit creation by the new Bank shall, by the terms of this Bill, be tied to tangible hard commodity production. The present Reserve Bank's ability to create or extinguish credit by "open market operations" -- is expressly forbidden.

The "power" of the proposed new Bank are greater than those of the existing Reserve Bank, and in addition to those of the Reserve Bank, include power:

1. to issue notes and establish credits to acquire, support and retain the sovereignty of Australia and for the defence of the lives, liberty, and happiness of the Australian people;
2. to control, and if necessary, prohibit, the movement and dealing in currency, of foreign exchange and financial instruments of the widest definition;
3. to plan, measure, and map the economic state of the nation;
4. to provide credits under a National Emergency Credit Issue Act to guarantee up to \$100,000 per individual person, the deposits of such persons in the event of a financial collapse of a substantial percentage of the existing trading banks. The confusing claim that the Reserve Bank, under the *Reserve Bank Act 1959*, has preference over depositors in the event of bank failure, when Section 16 of the *Banking Act 1959* states that, priority in the event of bank failure lies with the depositors, has been corrected in Section 55 of the CNCB Bill.

The new Bank will have eight divisions, as follows:

- *The Reserve Division*, responsible to licence, supervise, and regulate all financial institutions.
- *The Mint and Note Division*, responsible for the issuance of legal tender, i.e.. notes and coins.
- *The National Development Division*, responsible to assess the nation's need for credit to provide for the establishment and maintenance of infrastructure of national importance and to provide such credit.
- *The Statutory Authorities, Scientific and Educational Institutions Division*, responsible to assess the nation's need for credit to provide for the capital costs of land, buildings, plant, machinery, and tangible items, as well as for scientific and technological research and development costs for statutory authorities, scientific and educational institutions, and to provide such credit.
- *The State and Local Government Division*, responsible for assessing the nation's needs for credit for the establishment and maintenance of infrastructure not specifically provided for by other divisions of the bank and to provide that credit at an annual interest rate not to exceed three per cent.
- *The Primary Industries Division*, responsible for assessing the nation's need for credit and the issuance of credit expressly for family farmers and other family producers of primary products who directly contribute to increasing the potential population-density of Australia.
- *The Manufacturing Division*, responsible for assessing the nation's need for credit and the issuance of credit for manufacturing industries of Australia.
- *The International Division*, responsible for the administration of exchange controls, and provisions of the Act relating to gold, and if and when required, the exchange and clearance of financial instruments and other international matters.

The existing informal regulation of trading banks has been formalised, and provisions have been included to stop banks and other financial institutions from engaging in or financing speculative activities relating to currency, foreign exchange. derivatives, and the like.

All activities of the CNCB are to be open for public scrutiny and statements of account and activities are to be laid before the Parliament within 30 days of the close of each calendar month.

# Commonwealth National Credit Bank Bill

An Act to reconstitute the Reserve Bank of Australia as a Commonwealth National Credit Bank for economic development and supervision of the Banking and Non-Bank Financial Corporations systems and for other purposes.

## PART I—PRELIMINARY

1. Short Title
2. Commencement
3. Repeal and Amendments
4. Interpretation
5. Application to Territories
6. Act to Bind the Crown

## PART II—CONSTITUTION, POLICY, AND MANAGEMENT OF THE COMMONWEALTH NATIONAL CREDIT BANK

7. The Commonwealth National Credit Bank
8. General Powers
9. General Policy Respecting Physical Economy
10. Authority
11. Establishment of the Commonwealth National Credit Bank Board
12. Functions of the Commonwealth National Credit Bank Board
13. Management of the Bank

## PART III—THE COMMONWEALTH NATIONAL CREDIT BANK BOARD AND CHIEF EXECUTIVE AND DEPUTY CHIEF EXECUTIVE OF THE BANK

14. Membership of the Board
15. Remuneration of Members
16. Declaration by Members
17. Disqualification from Membership
18. Vacation of Office by Board Member
19. Vacancies Not to Invalidate Proceedings
20. Chairman and Acting Chairman
21. Meetings of the Board
22. Exclusion of Chief Executive and Deputy Chief Executive from Certain Deliberations
23. Disclosure of Interest in Contracts
24. Chief Executive and Deputy Chief Executive
25. Holding Office
26. Vacation of Office by Chief Executive or Deputy Chief Executive

## PART IV—NATIONAL BANKING

27. Commonwealth National Credit Bank to Act as a National Bank
28. Bank to Be Banker for the Commonwealth and Others
29. Capital
30. Reserve Fund
31. Profits
32. Certain Prohibitions on Trading Activities of the Bank

## **PART V—DIVISIONS WITHIN THE BANK**

33. Reserve Division
34. Mint and Note Division
35. National Development Division
36. Statutory Authorities, Scientific and Educational Institutions Division
37. State and Local Government Division
38. Primary Industries Division
39. Manufacturing Division
40. International Division

## **PART VI—COMMONWEALTH NATIONAL CREDIT BANK SERVICE**

41. Appointment of Officers
42. Requirements for Appointment
43. Regulations for Bank Service
44. Superannuation Fund
45. Borrowing by Members of the Board and Officers
46. Indemnity of Personnel

## **PART VII—MISCELLANEOUS**

47. Head Office
48. Branch Offices of the Bank
49. Agents
50. Guarantee by the Commonwealth
51. Taxation
52. Audit and Public Accountability
53. Annual Reports and Financial Statements
54. Power to Improve Property and Carry on Business
55. Priority of Debts Due by Other Banks
56. Regulations
57. Penalties

# PART I—PRELIMINARY

## Short Title

1. This Act may be cited as the *Commonwealth National Credit Bank Act*.

## Commencement

2. This Act shall come into operation on a date to be fixed by Proclamation.

## Repeal and Amendments

3. (1) The *Reserve Bank Act 1959* and all regulations are repealed.  
(2) The *Banking Act 1959* is amended in the following respects:
  - (a) the words “Governor-General”, wherever appearing, are deleted and replaced with the words, “the Board”;
  - (b) the word, “Treasurer”, wherever appearing, shall be deleted and replaced with the words, “the Board”;
  - (c) Section 8 in Part II is repealed and replaced by the words, “Banking business not to be carried on without authority. A body corporate shall not carry on any banking business in the Commonwealth unless the body corporate is in possession of an authority under the Reserve Division of the *Commonwealth National Credit Bank Act*”;
  - (d) Sections 9, 10, 11A, 11B, 11C, 12, 13 and 14 are repealed;
  - (e) The words, “Reserve Bank”, wherever appearing, are deleted, and replaced with the words, “Commonwealth National Credit Bank”;
  - (f) The word “Governor”, wherever appearing in the context of the Governor of the Reserve Bank, is deleted, and replaced with the words “Chief Executive”;
  - (g) The words “Deputy Governor” and “Deputy Governors”, wherever appearing in the context of the Deputy Governor or Governors of the Reserve Bank, are deleted, and replaced with the words, “Deputy Chief Executive”;
  - (h) Sections 17, 18, 19, 20, 21, 22, 23, 24, 25, 32, 33, 34, 35, 39, 39A and 39B, are repealed.  
(3) The *Financial Corporations Act 1974* is amended in the following respect:
  - (a) The words, “Governor-General”, wherever appearing, are deleted and replaced with the words “Commonwealth National Credit Bank Board.”

## Interpretation

4. (1) In this Act, unless the contrary intention appears:

“Act” means any legislation enacted by any Parliament of the Commonwealth, States or Territories of the Commonwealth of Australia and includes the rules and regulations made pursuant to such legislation;

“Australia” includes the Territories;

“Australian currency” means notes, coins and specie, payable and denominated in Australian dollars and cents;

“Australian financial instruments” means any instrument denominated in Australian currency evidencing debt or property, or a surety for the fulfilment of a promise or obligation, and also means rights, options, swaps and derivatives so denominated;

“bank” means a person carrying on the business of banking;

“banking” means the business carried on by banks in accordance with the *Banking Act 1959* and by State Banks defined by relevant State legislation;

“Chartered Bank” means any bank in Australia upon which the Commonwealth National Credit Bank has conferred the privilege of administering monies created pursuant to a national credit issue;

“Commonwealth” means the Federal Commonwealth of Australia;

“Constitution” means the *Constitution of Australia Act* as amended;

“derivative” means those contracts that are based on other products either financial or real, or prices associated with financial products and which involve:

(1) Future delivery, receipt or exchange of financial items such as cash or another derivative instrument; or

(2) Future exchange of real assets for financial items where the contract is marketable. The contracts can either be binding on both parties, as is the case with a currency swap, or subject to the exercise by one party, of a right contained in a contract, as is the case with options;

“family farmer” means any individual whose principal occupation is farming, and who resides on, or in the immediate vicinity, of the land farmed. It includes partnerships in which all individuals are related within the third degree of kinship, and where at least fifty per cent of the beneficial ownership resides with family farmers. It includes corporations in which all individuals are related within the third degree of kinship and in which at least one individual is a family farmer, or in which at least fifty per cent of the voting shares are owned by family farmers.

“farming” means any activity which directly results in the production of food (including viticulture) or fibre (including horticulture).

“financial institution” means any entity to which the provisions of the *Banking Act 1959*, or the *Financial Corporations Act 1974* applies;

“foreign currency” means notes, coins and specie denominated other than in Australian dollars and cents;

“foreign financial instruments” means any instrument denominated in any currency other than Australian currency evidencing debt or property, or a surety for the fulfilment of a promise or obligation, and also means rights, options, swaps, and derivatives so denominated;

“infrastructure” means the public or publicly regulated foundations of a national physical economy, and includes water management, transport, energy, health, education, and communications;

“legal tender of Australia” means Australian currency, which cannot legally be refused in payment of debt;

“money” means the currency of Australia, cheques, notes, credit card transactions and other financial instruments or pledges commonly or generally accepted in payment of debts;

“National Bank” means the Commonwealth National Credit Bank of Australia;

“national banking” means the business carried on by the Commonwealth National Credit Bank of Australia in accordance with this Act;

“National credit issue” means the issuance of credit by the Bank for circulation as money under the authority of Parliament;

“netting agreement” means an agreement between two or more parties whereby a number of trade balances of a debit and credit nature are netted out to produce a single debit or credit figure, or whereby a number of transactions are deemed one transaction;

“non-bank financial organisation” means any organisation to which the *Financial Corporations Act 1974* applies;

“Nostro account” means an account maintained by a bank in Australia in which its transactions with a bank not in Australia, are recorded;

“officer” or “officer of the Bank” means an officer of the Commonwealth National Credit Bank;

“open market operations” means the practice of debt or monetary policy management by or through the purchase, sale or dealing in Government-issued securities;

“Parliament” means the Parliament of the Commonwealth;

“person” means any person, group of persons, corporation, trust, or group of corporations or trusts;

“potential population-density” means the numbers of individuals existing per square kilometre, supported solely by the physical economy of the nation, plus the number who could be so supported. A rising potential population-density means an increasing number of individuals who could be potentially supported per unit area, and includes an increased quality of individual, through higher education, skill levels, and general culture;

“property” includes securities and rights under securities;

“regulations” means regulations made pursuant to the provisions of this Act or any other Act of Parliament;

“repealed Act” means an Act repealed by this Act;

“resident” means a person, not being a body corporate, who is ordinarily resident in Australia or a body corporate which is incorporated in Australia;

“statutory office” means the office of Chief Executive or Deputy Chief Executive;

“statutory reserve deposit” means the non-callable monies deposited with the Bank in accordance with the provisions of Sub-section 13(h) of the Reserve Division;

“the Bank” means the Commonwealth National Credit Bank of Australia;

“the Board” means the Commonwealth National Credit Bank Board of Directors established by this Act;

“the Chief Executive” means the Chief Executive of the Bank;

“the Deputy Chief Executive” means the Deputy Chief Executive of the Bank;

“the former Reserve Bank of Australia” means the Reserve Bank of Australia established under the *Reserve Bank Act 1959*;

“usurious” means interest rates exceeding the following rates where the purpose of the loan is related to the physical production of tangible goods:

(1) five per cent per annum calculated daily on the unpaid balance where the debt is mainly secured by land or fixed assets thereon;

(2) six per cent per annum calculated daily on the unpaid balance where the debt is mainly secured by plant, machinery, vehicle or other movable asset;

(3) seven per cent per annum calculated daily on the unpaid balance where the debt is mainly secured by personal guarantee, inventory items, crop or produce lien, or the like; and,

(4) at a rate of interest exceeding ten per cent per annum, calculated daily on the unpaid balance where the loan is not related to the physical production of tangible goods.

“Vostro account” means an account maintained by a bank in Australia in which transactions of any foreign bank are recorded.

### **Application to Territories**

5. This Act extends to all Territories of the Commonwealth.

### **Act to Bind the Crown**

6. This Act binds the Crown.

## **PART II—CONSTITUTION, POLICY AND MANAGEMENT OF THE COMMONWEALTH NATIONAL CREDIT BANK**

### **The Commonwealth National Credit Bank**

7. The body corporate established under the *Commonwealth Bank Act 1911* under the name Commonwealth Bank of Australia, and continued in existence under the subsequent Acts, namely the *Commonwealth Bank Act 1945*, *Reserve Bank Act 1959*, and *Commonwealth National Credit Bank Act* :
- (1) is preserved and continues in existence as a body corporate under and subject to the provisions of this Act, under the name Commonwealth National Credit Bank of Australia;
- (2) shall have a seal;
- (3) is capable of acquiring, holding and disposing of real and personal property, and of suing and being sued.

### **General Powers**

8. The Bank has such powers as are necessary for the purposes of this Act, and in particular, and

in addition to any other powers conferred on it by this Act, has power:

- (1) to receive money on deposit;
- (2) to borrow and lend money;
- (3) to buy, sell, discount and rediscount bills of exchange arising from tangible hard commodity production. The practice of creating or extinguishing money supply through “open market operations” is forbidden;
- (4) to buy, sell and otherwise deal in foreign currency, specie, gold and other precious metals;
- (5) to issue notes and establish credits to acquire, support and retain the sovereignty of Australia, and for the defence of the lives, liberty, and happiness of the Australian people;
- (6) to issue notes, bills, drafts, and effect transfers of money;
- (7) to establish credits and give guarantees;
- (8) to underwrite and make loans;
- (9) to regulate financial institutions and State Banks operating beyond the borders of one state or territory, but not a State Bank operating within its home State, unless with prior agreement of the State;
- (10) to use and direct the resources of the nation to extract and make available to the Bank the data upon which to measure the rate of increase of potential population-density;
- (11) to control the rate of exchange of Australian currency with respect to foreign currencies;
- (12) to control or prohibit, whether within, or outside the Commonwealth, the buying, borrowing, selling, lending, exchanging, or that which has the effect of such, or any other dealing or transaction that relates to Australian currency, or Australian financial instruments by a non-resident of the Commonwealth;
- (13) to control or prohibit the taking or sending out of the Commonwealth, and the bringing or sending into the Commonwealth, of Australian or foreign currency, or Australian or foreign financial instruments, including the transfer of such instruments from a register outside the Commonwealth to a register within the Commonwealth or vice versa and also the transfer of Australian financial instruments between registers outside the Commonwealth;
- (14) to control or prohibit whether within or outside the Commonwealth by a resident of the Commonwealth, the buying, borrowing, selling, lending, exchanging, or that which has the effect of such, or any other dealing or transaction that relates to foreign currency or foreign financial instruments, and such dealings within the Commonwealth by a non-resident of the Commonwealth;
- (15) to control or prohibit the making of markets in Australian financial instruments, or foreign financial instruments within, or partly within, the Commonwealth;
- (16) to control or prohibit any transaction that has the effect of, or that otherwise relates to, the buying, selling, leasing, or exchanging of, or other dealing with property, that is outside Australia, by or on behalf of a resident of the Commonwealth or the buying, selling, leasing, or exchanging of, or other dealing with property within the Commonwealth by a non-resident;
- (17) to obtain accounts, books, documents, other papers, electronic data, or other information for purposes related to the exercise of the Bank’s powers;

(18) to provide a continual assessment of the need for credit and to emit and issue money;

(19) in the event of a banking emergency as defined by the collapse of a substantial percentage of the corporations holding Authorities to conduct the business of banking, the Board may prepare for the consideration of the Parliament, a bill for a “National Emergency Credit Issue Act.” The credits authorised by the enactment of such bill, shall be used to guarantee the deposits of individual depositors in financial institutions, up to a limit of \$100,000 per individual;

(20) to do anything incidental to any of its powers.

### **General Policy Respecting Physical Economy**

9. (1) Except in the case of national emergency declared by the Parliament, the Bank shall only issue credit against the tangible wealth-creating capacity of the nation. Such capacity is defined as agriculture, mining and raw materials extraction, manufacturing, infrastructure, health care, education, and scientific research.
- (2) The Reserve Division shall monitor all new credit issuance to ensure that the policy summarised in Subsection (1) is adhered to.
- (3) The Bank shall guide its activities so as to cause a rise in both:
- (a) the physical output of the nation; and
  - (b) the rate of introduction of new technologies into the economy.
- (4) The growth described in Sub-section (3) shall be measured and mapped in the annual accounts of the nation, which shall be placed before the Parliament, and expressly show:
- (a) the rise in the per capita consumption of an average market basket of consumer goods from year to year, at a constant or declining cost to the consumer;
  - (b) the rising ratio of production of capital goods, plant, equipment, and basic economic infrastructure, compared to consumer goods;
  - (c) the rise in energy usage from year to year, both per capita, and per hectare;
  - (d) the rise in energy flux-density of the technologies of energy production, measured in watts per square centimetre per second, or a meaningful equivalent;
  - (e) the rise in both the actual, as well as potential population-density, from year to year.
- (5) If there be no rise in any of the factors described in Sub-clauses (a), (b), (c), (d), or (e), then an investigation shall be carried out to determine the cause of that stagnation or collapse, and the results of that investigation shall be laid before the Parliament.

### **Authority**

10. The Bank shall at all times act under authority of the Parliament and as determined in accordance with this Act.

### **Establishment of the Commonwealth National Credit Bank Board**

11. There shall be a Commonwealth National Credit Bank Board, which shall be constituted as provided by Part III.

### **Functions of the Commonwealth National Credit Bank Board**

12. It is the duty of the Board to ensure that the monetary, economic, and banking policy of the Bank is directed to the greatest advantage of the people of Australia, and that the powers of the Bank under this Act, the *Banking Act 1959* and the *Financial Corporations Act 1974*, are exercised in such a manner as will best contribute to the:
- (1) stability of the Australian currency;
  - (2) attainment and maintenance of full employment in the Commonwealth;

- (3) economic prosperity of the people of the Commonwealth;
- (4) defence of the lives, liberty, and happiness of the people of the Commonwealth;
- (5) management and progressive elimination of the foreign debt of the Commonwealth, the States and of the public institutions and private sector:
- (6) attainment and retention of national sovereignty;
- (7) health care, welfare, education, and cultural enrichment of the people of the Commonwealth;
- (8) security of the food supply of the people of the Commonwealth;
- (9) provision of national and state infrastructure;
- (10) encouragement of productive private enterprise within the Commonwealth.

### **Management of the Bank**

- 13. The business of the Bank shall be managed by the Board in accordance with the provisions of this Act, and specifically:
  - (1) The Board shall appoint persons to the following positions for such period, and on such terms as are consistent with the provisions of this Act, and may revoke any such appointment:
    - (a) Chief Executive;
    - (b) Deputy Chief Executive; and
    - (c) Divisional Managers for each of the eight Divisions of the Bank;
  - (2) The Board shall delegate to the Chief Executive and the Deputy Chief Executive executive powers, as are necessary for the proper and efficient functioning of the Bank as they so determine, and may from time to time revoke, withdraw, alter or vary, all, or any of these powers;
  - (3) Divisional Managers shall manage their respective Divisions under the executive authority of the Chief Executive of the Bank:
  - (4) The Deputy Chief Executive shall perform such duties as the Chief Executive directs, and in the event of a vacancy in the office of Chief Executive, or in the event that the Chief Executive is temporarily unable to fulfil his/her duties for any reason whatsoever, the Deputy Chief Executive shall perform the duties of the Chief Executive, and shall have, and may exercise, the powers and functions of the Chief Executive, provided that he/she shall first provide the Board written advice of his/her intention to so act;
  - (5) All authority granted to each and every Division of the Bank, by this Act, shall be subject to approval of the Board.

## **PART III—THE COMMONWEALTH NATIONAL CREDIT BANK BOARD AND THE CHIEF EXECUTIVE AND DEPUTY CHIEF EXECUTIVE OF THE BANK**

### **Membership of the Board**

- 14. (1) The Commonwealth National Credit Bank Board shall consist of:
  - (a) the Chief Executive (ex officio with no voting rights);
  - (b) the Deputy Chief Executive (ex officio with no voting rights);

- (c) the Prime Minister of the Commonwealth;
- (d) the Treasurer of the Commonwealth;
- (e) the Premiers of each State, and the Chief Minister of the Northern Territory;
- (f) five Federal Ministers of the Commonwealth relevant to primary industry, secondary industry, defence, health, and education.

(2) A member of the Board shall cease to be eligible to hold his/her seat on the Board if, and from such time, as he/she shall be replaced by a successor to his/her ministerial position, or other qualifying appointment.

(3) No member of the Board shall appoint a proxy, or any other person to act on his/her behalf.

### **Remuneration of Members**

15. (1) A member of the Board shall be paid such remuneration as is determined by the Remuneration Tribunal.
- (2) A member of the Board shall be paid such allowances as are prescribed.
- (3) This section has effect subject to the Remuneration Tribunals Act 1973.
- (4) A reference in this section to a member of the Board does not include a reference to the Chief Executive or Deputy Chief Executive.

### **Declaration by Members**

16. A member of the Board shall, before entering upon his/her duties or exercising any power under this Act, make before a Justice of the Peace or a Commissioner for taking Affidavits, an oath or affirmation in accordance with the form described in the Regulations.

### **Disqualification from Membership**

17. (1) A person who is a director, officer, employee or agent of a corporation (other than the Bank), or who has, during a period of three years prior to his/her appointment to the Board, held such a position with any such corporation, the business of which is wholly or partly that of a financial institution, is not capable of appointment, or of continuing to act as a member of the Board.
- (2) A person who has been a member of the Board, shall not for a period of three years commencing from the date he/she ceased to be a member of the Board, act as a director, officer, employee or agent of a corporation, the business of which is wholly or partly that of a financial institution.

### **Vacation of Office by Board Member**

18. (1) If a member of the Board appointed under Section 14:
- (a) becomes permanently incapable of performing his/her duties;
  - (b) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his/her creditors, or makes any assignment of his/her remuneration for their benefit;
  - (c) resigns his/her office by writing under his/her hand, addressed to the Chairman of the Board;
  - (d) is absent, except on leave granted by the Board, from all meetings of the Board held during two consecutive months or during any three months in any calendar year; or
  - (e) fails to comply with his/her obligations under Section 23:
- then the remainder of the Board shall instruct the Chairman, and the Chairman shall so terminate his/her appointment.

### **Vacancies Not to Invalidate Proceedings**

19. Subject to Sub-section (4) of Section 21, the exercise of the rights, powers, authorities or func

tions or the performance of the duties or obligations of the Board is not affected by reason only of there being a vacancy in the office of a member or any number of members.

### **Chairman and Acting Chairman**

20. The Prime Minister of the Commonwealth shall be the Chairman of the Board, and in his/her absence an Acting Chairman shall be elected by the Board.

### **Meetings of the Board**

21. (1) The Board shall meet at such times and places as the Board determines, but such determinations shall include not less than one meeting each calendar year in Darwin and in each capital city of the Commonwealth.
- (2) The Board shall meet not less frequently than once a month.
- (3) The Chairman shall preside at all meetings of the Board at which he/she is present, and, in the absence of the Chairman, the Acting Chairman so elected, shall preside.
- (4) Eight members form a quorum at a meeting of the Board.
- (5) Questions arising at a meeting of the Board shall be decided by a simple majority of the votes of the members present and voting.
- (6) The member presiding at a meeting of the Board shall have a deliberative vote, and in the event of an equality of votes, shall also have the casting vote.
- (7) The Board shall keep till minutes of its proceedings, both audio-tape and written transcript.

### **Exclusion of Chief Executive and Deputy Chief Executive from Certain Deliberations**

22. The Chief Executive and Deputy Chief Executive shall not be present during any deliberation of the Board, or take part in any decision of the Board, in relation to the determination or application of any terms or conditions on which the Chief Executive or Deputy Chief Executive holds office.

### **Disclosure of Interest in Contracts**

23. (1) A member of the Board, who is directly or indirectly interested in a contract made, or proposed to be made by the Bank, shall disclose the nature of the member's interest at the first meeting of the Board at which the member is present when the relevant facts have come to the knowledge of the member.
- (2) A disclosure under Sub-section (1) shall be recorded in the minutes of the Board, and after the disclosure, the member of the Board:
- (a) shall not take part in any deliberation or decision of the Board with respect to that contract; and
  - (b) shall be disregarded for the purpose of constituting a quorum of the Board for any such deliberation or decision.

### **Chief Executive and Deputy Chief Executive**

24. (1) The Chief Executive and Deputy Chief Executive:
- (a) shall be appointed by the Board and such appointments shall be ratified by Parliament;
  - (b) shall be appointed for such period, not exceeding seven years, as the Board determines, and are eligible for reappointment; and
  - (c) hold office subject to good behaviour.
- Holding Office
25. The Chief Executive and Deputy Chief Executive shall hold office on such terms and conditions (including terms and conditions relating to remuneration and allowances) in

relation to matters not provided for by this Act, as are determined by the Board. Such terms and conditions shall be a matter of public record.

### **Vacation of Office by Chief Executive or Deputy Chief Executive**

26. (1) The Board shall terminate the employment of the Chief Executive or Deputy Chief Executive if he:
- (a) becomes permanently incapable of performing his/her duties;
  - (b) engages in any paid employment other than with the Bank, or become a member of, or acts in the interest or on behalf of, a secret society or society with secrets, or a foreign power, or interests associated with a foreign power;
  - (c) becomes bankrupt, applies to take benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his/her creditors, or makes an assignment of his/her salary for their benefit; or
  - (d) resigns his/her office by writing under his/her hand addressed to the Chairman.
- (2) If the Chief Executive or the Deputy Chief Executive is guilty of protracted or gross negligence in the discharge of his/her duties, or repeatedly fails to act in the best interests of the Bank, and the people of Australia, the Board may, if it so resolves, terminate his/her appointment.

## **PART IV—NATIONAL BANKING**

### **Commonwealth National Credit Bank to Act as a National Bank**

27. The Bank:
- (1) is the National Bank of the Commonwealth;
  - (2) shall carry on business as a national bank;
  - (3) subject to this Act, to the *Banking Act 1959*, and the *Financial Corporations Act 1974*, shall not carry on business otherwise than as a national bank;
  - (4) shall have absolute and sole authority to issue the legal tender of the Commonwealth;
  - (5) subject to the *Banking Act 1959*, and the *Financial Corporations Act 1974*, the Bank shall regulate all financial institutions governed by such Acts.

### **Bank to Be Banker for the Commonwealth and Others**

28. The Bank shall, insofar as the Commonwealth and any other recipient of a national credit issue require it to do so, act as banker and financial agent of the Commonwealth and such other recipient.

### **Capital**

29. The capital of the Bank shall be the aggregate of:
- (1) the capital of the former Reserve Bank of Australia immediately before the enactment of this Act; and
  - (2) such other sums as are transferred from the Reserve Bank Reserve Fund in pursuance of Section 30 of this Act.

### **Reserve Fund**

30. (1) The Bank shall have a Reserve Fund, to be called the “Commonwealth National Credit Bank Reserve Fund”, which shall consist of:
- (a) the amount standing to the credit of the Reserve Bank Reserve Fund immediately before the enactment of this Act; and

(b) such other sums as are placed to its credit in pursuance of Section 31 of this Act.

(2) The Board may, from time to time, transfer from the Commonwealth National Credit Bank Reserve Fund to the capital of the Bank, for the purposes of Part IV of this Act, such sums as the Board determines.

## Profits

31. The net profit of the Bank in each year shall be dealt with as follows:

(1) such amount as the Board determines shall be placed to the credit of the Commonwealth National Credit Bank Reserve Fund; and

(2) the remainder shall be paid to the Commonwealth.

## Certain Prohibitions on Trading Activities of the Bank

32. Subject to Section 54 in Part VII of this Act, the Bank shall not participate as a Principal in any project financed by a national credit issue, nor is the Bank permitted to receive dividends, profit share, or other pecuniary benefit from any project financed by a national credit issue.

## PART V—DIVISIONS WITHIN THE BANK

### Reserve Division

33. (1) The Reserve Division shall:

(a) licence, supervise and regulate all financial institutions;

(b) eliminate usurious and unconscionable banking and commercial practices, and the risk of such practices;

(c) set the operational liquidity ratio of financial institutions at 18 per cent of the demand deposits and mandate that such liquidity ratio be held in the legal tender of Australia;

(d) maintain a system of national economic accounting in the form described in the Regulations to accurately reflect the economic state of the nation at all times.

(2) The Reserve Division shall determine the criteria for issuance of authority to conduct business under the *Banking Act 1959*, and the *Financial Corporations Act 1974*, and relying upon such criteria, shall accept or reject applications for authority to carry on the business of financial institutions, and issue such authorities.

(3) The Reserve Division shall determine the criteria for the issue of Charters to banks to become Chartered Banks, and relying upon such criteria, shall accept, or reject applications for authority to carry on the business of Chartered Banks, and issue such Charters.

(4) The Reserve Division shall have the power, by notice in writing served on the body corporate, to which an authority or Charter was issued under the foregoing provisions, to:

(a) impose conditions, or additional conditions, on an authority or Charter; and

(b) vary or revoke conditions imposed on an authority or Charter. and, where an authority or Charter under this Division is subject to conditions, the body corporate shall comply with those conditions.

(5) Where an authority or Charter under this Division is granted to a body corporate, the First Schedule of the *Banking Act 1959*, or the Register of Corporations kept for the purposes of the *Financial Corporations Act 1974*, as the case may be, is hereby amended by the authority of this Act, with the addition of the name of the body corporate.

(6) Where the Reserve Division is satisfied that a body corporate in possession of an authority or Charter under this Division, has ceased to carry on the business of a financial institution in Australia, this Division may revoke its authority or Charter.

(7) Where:

- (a) A body corporate in possession of an authority or Charter under this Division requests the revocation of the authority or Charter, by notice in writing to the Division; and
- (b) The Division is satisfied that:
  - i. The revocation would not prejudice the interests of the depositors of the financial institution; and
  - ii. The revocation would not likely be to the detriment of the national interest; then, the Bank shall revoke the authority or Charter;
- (c) If an authority or Charter under this Division is so revoked, the First Schedule of the *Banking Act 1959*, or the Register of Corporations kept for the purpose of the *Financial Corporations Act 1974*, as the case may be, is deemed to be amended by the omission of the name of the financial institution concerned.

(8) Where the Board is satisfied that a financial institution in possession of an authority or Charter under this division:

- (a) has ceased to exist; or
- (b) has changed its name; then the Division shall publish in the Gazette a notice to that effect and, upon the publication of the notice, the First Schedule of the *Banking Act 1959*, or the Register of Corporations kept for the purpose of the *Financial Corporations Act 1974*, and the register of Chartered Banks kept for the purposes of this Act, shall be amended with effect from the date on which the body corporate ceased to exist, or changed its name, by deletion or by change of the name.

(9) The Reserve Division shall publish in the Gazette, notice of any authority or Charter granted or revoked by this Division, or any instrument made under Sub-section (4) of Section 33.

(10) A person other than a body corporate shall not carry on the business of a financial institution in Australia.

(11) With effect from the date of proclamation of this Act each corporation listed in the first schedule of the *Banking Act 1959* shall be deemed to be a Chartered Bank, subject to acceptance in writing of the rules of the Charter contained in the Regulations. Such acceptance shall be conveyed in writing to the Reserve Division within ninety days of the date of proclamation of this Act. Charters shall be granted by the Division for terms not exceeding thirty-six calendar months, and each Charter shall be granted upon such terms and conditions as the Division shall determine. Charters so granted shall be considered for renewal upon receipt by the Division of a written request to renew. Renewal shall be at the discretion of the Division. Any Charter not so renewed by the expiry date shall be deemed to have lapsed, and all concessions and business flowing from the Charter shall be withdrawn.

(12) No financial institution shall be permitted to participate directly or indirectly in the undermentioned activities:

- (a) currency speculation including derivatives thereof;
- (b) equity participation in any entity, other than for the purposes of orderly disposal of property acquired by way of default on an outstanding loan;
- (c) trade, commerce, agriculture, industry or other like undertaking;
- (d) usurious or other unconscionable practices;
- (e) trading in stocks, bonds, or other securities or financial instruments, derivatives, or the financing of any such trading, where the purpose is speculative.

(13) The Reserve Division shall prescribe regulations for the prudential conduct, supervision, and monitoring of all financial institutions. Such regulations shall require all such institutions to conduct their business in accordance with the provisions of the Regulations. Further, the Regulations shall:

- (a) provide for the collection, analysis, and publication of information in respect of the business, and financial standing of financial institutions;
- (b) encourage and promote sound ethical practice by financial institutions;
- (c) provide for evaluation of the effectiveness and implementation of the Regulations;
- (d) provide for the control of rates of interest, discount and other charges payable to, and by financial

institutions, and for the elimination of usurious practices;

(e) provide for determination of the lending policy of financial institutions including the purpose for which monies will, and will not be advanced. Such determinations shall favour lending at low rates of interest, and on otherwise favourable terms, for purposes that increase the potential population-density, and eliminate or penalise lending for speculative purposes;

(f) explicitly describe and determine capital adequacy ratios and prime assets ratios;

(g) explicitly describe and determine prudential financial standards relating to market, credit, and data risks, off balance sheet business, derivative products and the like;

(h) provide for an account to be known as the Statutory Reserve Deposit Account to be maintained with the Bank, and for such Account to be in credit to the extent specified in the Regulations;

(i) subject to Section 33 (1) (c), explicitly describe and determine operational liquidity ratios;

(j) provide for the percentile nominated in Section 33 (1)(c) to be reduced by one percentage point for each one percentage point that loans to productive industries, as determined by the Reserve Division, exceed 60 per cent of all loans, down to a minimum liquidity ratio of 5 per cent;

(k) stipulate that a serious and protracted breach of the operational liquidity ratio of 18 per cent, except as specified in Sub-section (13)(j) above, shall be cause for an immediate investigation in accordance with Sub-section (14) of this section;

(l) prescribe penalties for offences against the regulations not exceeding \$100,000 fine plus confiscation of the gains arising from such offences.

(14) The Reserve Division shall protect the depositors of financial institutions, and shall have the power with the prior consent of the Board to carry out any investigation, and to control the affairs of such financial institutions, and such financial institutions shall assist all such investigations and control, and provide all deeds, securities, financial instruments, undertakings, and other intangibles or things considered necessary, and furthermore:

(a) a financial institution that considers that it is likely to become unable to meet its obligations, or is about to suspend payment, shall forthwith in writing inform the Reserve Division;

(b) where a financial institution informs the Reserve Division that it considers that it is likely to become unable to meet its obligations, or that it is about to suspend payment, or the Reserve Division is of the opinion that a financial institution is in serious and protracted breach of this Act, the *Banking Act 1959*, or the *Financial Corporations Act 1974*, or is likely to become unable to meet its obligations, or is about to suspend payments, then the Reserve Division shall investigate the affairs of such financial institution and assume control of, and carry on the business of that financial institution;

(c) where the Reserve Division has under this section resolved to investigate the affairs of a financial institution, such corporation shall submit its business to the control of the Reserve Division, and shall provide all such access, books, accounts, documents, electronic data, information, personnel, facilities, and other intangibles and things that the Reserve Division requires to conduct the investigation, or to carry on the business of that financial institution;

(d) where the Reserve Division in pursuance of this section has assumed control of the business of a financial institution, the Reserve Division shall, subject to Sub-section (14)(f), remain in control of, and direct the affairs of that financial institution, until such time as the Reserve Division is satisfied that suitable provision has been made for repayment of the deposits of that financial institution, and in the opinion of the Reserve Division, it is no longer necessary for the Reserve Division to remain in control of the business of that financial institution;

(e) whenever the Reserve Division is in control of a financial institution, the laws relating to insolvency and liquidation of companies shall not apply, nor shall any other person, organisation or entity, be appointed to supervise, conduct, or determine, any matter in relation to the winding up, liquidation or restructuring of a financial institution;

(f) where the Reserve Division has, in pursuance of this Sub-section, assumed control of the business of a financial institution, a Full Court of the Federal Court of Australia, may, upon application of that financial institution, order that the Reserve Division cease to control the business of that financial institution as from the date specified in the order, if, after the expiration of twelve months from the date the Reserve Division assumed control, the Court is satisfied that it is no longer necessary for the protection of the depositors of that financial institution that the Reserve Division should remain in control of the business of that financial institution;

(g) where the Reserve Division, in pursuance of this Subsection, assumes control of the business of a financial institution, and ceases such control, the Reserve Division shall publish that fact in the Gazette.

(15) The Reserve Division shall publish in the Gazette, detailed investigation reports and accounts of any corporation under investigation or control, in pursuance of the obligations con-

tained in the preceding Sub-section.

(16) In the event of a financial institution becoming unable to meet its obligations, or suspending payment, the assets of such corporation in the Commonwealth shall be available to meet its deposit liabilities in priority to all other liabilities of that corporation, and the provisions of any netting or similar type agreement entered into by that financial institution, shall be of no consequence or effect, and shall not operate to frustrate the intention of this Sub-section (14).

(17) Every financial institution shall hold and own assets in the Commonwealth of a value, not less than the total amount of its deposit liabilities in the Commonwealth.

### **Mint and Note Division**

34. The Mint and Note Division shall be responsible for the issuance, reissuance and cancellation of Australian notes and coins as defined in the Australian Notes Act 1910, under Part VII of the *Commonwealth Bank Act 1911*, under Part VI of the *Commonwealth Bank Act 1945*, under Part V of the *Reserve Bank Act 1959*, and under this Act, and furthermore:

(1) Denomination of notes and coins shall be detailed in the Regulations, or any other denomination that the Board, by instrument in writing published in the Gazette, determines.

(2) Australian notes and coins issued by the Mint and Note Division are to be legal tender throughout the Commonwealth.

(3) The Mint and Note Division shall ensure that there is sufficient supply of legal tender as required by the Australian economy, and that such supply and issue is first authorised by the Parliament.

(4) The Australian notes and coins issued in pursuance of this Division, shall bear such signatures, and be of such design, as detailed in the Regulations.

(5) Neither a person, nor a State, shall issue a bill, or note, or coin, for payment of money payable to bearer on demand, and intended for circulation as legal tender.

### **National Development Division**

35. The National Development Division shall be responsible for assessment of the nation's need for credit, to provide for the capital costs of establishing and maintaining infrastructure, not otherwise specifically provided for by other Divisions of the Bank, but as defined by the Constitution and under the authority of a minister responsible to the Parliament. It shall be the further responsibility of this Division to provide such credit, upon such terms, as specified in the relevant National Development Credit Issue Act, and as the Board determines at an annual interest rate not to exceed three per cent.

#### **The National Development Division shall:**

(1) Annually call upon the resources of Commonwealth Departments, and advertise in the major media, for the people of Australia, to assist in the assessment of the need for both:

- (a) new infrastructure;
- (b) the maintenance and modification of existing infrastructure.

(2) After receiving submissions from the public and Commonwealth Departments, and assessing the Nation's needs, for credit for the ensuing twelve months, prepare, for approval by the Board, a Parliamentary bill in the terms described in the Regulations for a "National Development Credit Issue Act", for a national credit issue.

(3) Upon approval by the Board, and by no later than 31st May each year, cause the Treasurer to introduce into the Parliament the Bill to authorise creation of the required credit.

(4) Use the Proclamation of the bill; as amended by Parliament; as the authority for the national credit issue for the works detailed therein, and furthermore:

- (a) such bill shall be subject to normal constitutional procedures and requirements, as a law appropriating monies;
- (b) nothing herein, shall prevent the submission and enactment of more than one bill each year for a national credit issue, through this Division of the Bank;
- (c) under authority of the National Development Credit Issue Act, the Division shall credit a “National Development Account”, the total amount authorised by the Act, and from such account, the Bank shall pay to the credit of each Commonwealth Department’s “National Infrastructure Account” with the Bank, such amounts as specified in the National Development Credit Issue Act.

### **Statutory Authorities, Scientific and Educational Institutions Division**

36. The Statutory Authorities, Scientific and Educational Institutions Division, shall be responsible for assessing the nation’s needs for credit to provide for the capital costs of land, buildings, plant, machinery, and tangible items, as well as for scientific and technological research and development costs for statutory authorities, scientific and educational institutions. It shall be the further responsibility of this Division to provide such credit, upon such terms, as specified in the relevant Statutory Authorities, Scientific and Educational Institutions National Credit Issue Act, and as the Board determines but at an annual interest rate not to exceed three per cent.

(1) The Statutory Authorities, Scientific and Educational Institutions Division shall:

- (a) annually call upon the resources of Commonwealth and State authorities and institutions and the people of Australia, by advertisement in the major media and otherwise, to assist in the assessment of the need for land, buildings, plant, machinery, and tangible items, the maintenance and modification of such existing property, together with scientific and technological research and development;
- (b) after receiving submissions from the public, and Commonwealth and State authorities and institutions, and assessing the Nation’s needs for credit for the ensuing twelve months, prepare for approval of the Board, a bill in the terms described in the Regulations, for a Parliamentary Act entitled, “Statutory Authorities, Scientific and Educational Institutions National Credit Issue Act”, for a national credit issue, to pay for the costs for establishing, modifying, and maintaining the property, and for the scientific and technological research and development detailed therein;
- (c) upon approval by the Board, and by no later than 31st May each year, cause the Treasurer to introduce into Parliament, the bill to authorise creation of the required credit;
- (d) use the Proclamation of the bill, as amended by Parliament, as the authority for the national credit issue for the property, works, research, and development described therein.

(2) Furthermore:

- (a) such bill shall be subject to normal constitutional procedures and requirements, as a law appropriating monies;
- (b) nothing herein shall prevent the submission and enactment of more than one bill each year, for a national credit issue through this Division of the Bank;
- (c) under authority of the Statutory Authorities, Scientific and Educational Institutions National Credit Issue Act, the Bank shall credit an account designated “Statutory Authorities, Scientific and Educational Institutions National Credit Issue Account”, the total amount authorised by the Act. From such account, the Bank shall pay to the credit of each Statutory Authority, Scientific or Educational Institutions Account with the Bank. Such amounts as specified in the Statutory Authorities, Scientific and Educational Institutions National Credit Issue Act;
- (d) such credit shall be for the payment of capital works and research purposes, and not for operating costs or budget supplement;
- (e) the Bank shall, in every instance, take a security charge over the asset created, or the outcome of research, and hold such charge until the borrowing has been repaid or extinguished;
- (f) at the time of preparing the bill described in Subsection (2), there shall also be prepared a document citing the reasons for inclusion or exclusion of each proposal considered, and such document shall be submitted to the Board with the draft bill, and shall become a matter of public record.

### **State and Local Government Division**

37. The State and Local Government Division shall be responsible for assessing the nation's needs for credit for establishment and maintenance of infrastructure which comes, or would come within the responsibility of a State Government Minister. A further responsibility of this Division shall be to provide credit upon such terms as specified in the relevant "State and Local Government National Credit Issue Act", at an annual interest rate not to exceed three per cent.

(1) The State and Local Government Division shall:

- (a) annually call upon the State and Territorial Governments and the people of Australia, by advertisement in the major media and otherwise, to assist in the assessing of the need for the establishment of new infrastructure and the maintenance of existing infrastructure;
- (b) after receiving submissions from the public and State and Territorial Governments, and assessing of the needs of each State and Territory for credit for the ensuing twelve months, prepare for approval by the Board, a parliamentary bill in the terms described in the Regulations for a "State and Local Government National Credit Issue Act";
- (c) upon approval by the Board, and by no later than 31st May each year, cause the Treasurer to introduce into the Parliament the bill to authorise creation of the required credit;
- (d) use the Proclamation of the bill, as amended by Parliament, as the authorisation for the national credit issue for the works detailed therein.

(2) Furthermore:

- (a) such bill shall be subject to normal constitutional procedures and requirements as a law appropriating monies;
- (b) nothing herein shall prevent the submission and enactment of more than one bill each year for a national credit issue through this Division of the Bank;
- (c) under authority of the State and Local Government Credit Issue Act, the Bank shall credit an account designated "State and Local Government National Credit Issue Account" the total amount authorised by the Act. From such account the Bank shall pay to the credit of each State and Local Government National Credit Issue Drawings Account with the Chartered Bank or State Bank named in the Act for that purpose the total amount due to each particular State;
- (d) the State and Chartered Banks shall permit the State Government Departments, and Local Government Councils, to draw funds due to them in monthly tranches, after completion of all security arrangements detailed in Sub-clauses (e) and (f), and after approval by the State or Chartered Bank of the invoices for work carried out or goods and property purchased, in connection with each project funded by the National Credit Issue;
- (e) the State Bank or Chartered Bank shall, in every instance, take a security charge over the asset created, and the land upon which it is constructed, and hold such charge until the borrowing has been repaid or extinguished;
- (f) the State and Chartered Banks' liability to the Bank, in respect of a national credit issue under this Division, shall be secured by a floating or specific charge, and discharged upon repayment to the Bank, of the amount of the original credit and all other appertaining charges and interest;
- (g) such national credit shall be for the payment of capital works and their maintenance, and not for operating costs or budget supplement;
- (h) at the time of preparing any bill described in this section, there shall also be prepared a document citing the reasons for inclusion or exclusion of each proposal considered, and such document shall be submitted to the Board with the draft bill, and it shall be a matter of public record;
- (i) interest, and all other charges by the State and Chartered Banks in relation to loans, made in accordance with the provisions of this Division, shall be not more than two per cent per annum of the outstanding balance, in addition to interest charges of the Bank.

### Primary Industries Division

38. The Primary Industries Division is responsible for assessing the nation's need for credit to provide for the costs of land, buildings, plant, machinery, other tangible items, and working capital for primary industry.

A further responsibility of this Division shall be to provide credit upon such terms as specified in the relevant "Primary Industries National Credit Issue Act", and, at an interest rate to Chartered Banks for reloaning to primary producers of not more than two per cent and, subject to Sub-section (8) of Section 38, at an interest rate for loans directly to primary

producers of not more than five per cent.

(1) The Primary Industries Division shall:

- (a) assess the needs for credit for the primary industries of Australia;
- (b) provide credit upon terms defined herein and otherwise as the Board determines, expressly for:
  - i. family farmers, and other family producers of primary products, who directly contribute to increasing the potential population-density of Australia;
  - ii. relief from the effects of catastrophe;
  - iii. price support mechanisms and marketing structures, provided that not more than five per cent of the voting stock or equity of any such mechanism or structure, is held or controlled by any one individual organisation or group;
- (c) after assessing the needs for credit for the primary industries of Australia, for the ensuing twelve months, prepare for approval of the Board, a parliamentary bill in terms described in the Regulations for a “Primary Industries National Credit Issue Act”;
- (d) upon approval by the Board, and by no later than 31st May each year, cause the Treasurer to introduce into the Parliament the bill to authorise creation of the required credit;
- (e) use the Proclamation of the bill, as amended by Parliament, as the authority for the national credit issue.

(2) Such bill shall be subject to normal constitutional procedures and requirements as a law appropriating monies.

(3) Nothing herein shall prevent the submission and enactment of more than one bill each year for a national credit issue through this Division of the Bank.

(4) Under authority of the Primary Industries National Credit Issue Act, the Bank shall credit an account designated the “Primary Industries National Credit Issue Account”, the total amount authorised by the Act. From such account, the Bank shall pay to the credit of a “Primary Industries National Credit Issue Drawings Account” with the Chartered Banks or branches of the Bank nominated by the prospective recipients, such monies, in tranches, to cover the monthly approved credit advances to all such recipients nominating each such Chartered Bank or branch of the Bank.

(5) The Chartered Banks and branches of the Bank, shall effect transfers from their respective drawings accounts to the credit of the borrowers’ accounts, after completion of all security arrangements detailed in Sub-sections (6) and (7), and after approval by the Chartered Bank or branch of the Bank, of the invoices for work carried out, and for goods and property purchased in connection with each project funded wholly, or in part, by the national credit issue.

(6) The Bank or Chartered Bank shall, in every instance, take a security charge over the asset created or enhanced, constructed or purchased, whether plant, machines, unsold produce, land, and the like, related to the purpose for which the credit is authorised.

(7) The Chartered Banks’ liability to the Bank in respect of national credit issues under this Division shall be secured by a floating or specific charge, and discharged upon repayment of the amount of the original credit and all other appertaining charges.

(8) Interest, and all other charges payable by the primary industry borrower, shall not exceed five per cent per annum, based on the outstanding balance of any loan, whether wholly or in part comprising a national credit issue, and whether arranged with a Chartered Bank, or a branch of the Bank.

## Manufacturing Division

39. The Manufacturing Division is responsible for assessing the Nation’s need for credit to provide for the costs of land, buildings, plant, machinery, other tangible items, and working capital for the manufacturing industry.

A further responsibility of this Division shall be to provide credit upon such terms as

specified in the relevant “Manufacturing Industries National Credit Issue Act”, and, at an interest rate to Chartered Banks for relending to manufacturers of not more than two per cent and subject to Sub-section (8) of Section 39, at an interest rate for loans directly to manufacturers, of not more than five per cent.

(1) The Manufacturing Division shall:

- (a) assess the needs for credit for the manufacturing industries of Australia;
- (b) provide credit upon terms defined herein, and otherwise, as the Board determines, expressly for:
  - i. manufacturers producing goods which directly contribute to increasing the potential population-density of Australia;
  - ii. relief from the effects of catastrophe;
- (c) after assessing the needs for credit for the ensuing twelve months, prepare, for the approval of the Board, a parliamentary bill in the terms described in the Regulations for a “Manufacturing Industries National Credit Issue Act”;
- (d) upon approval by the Board, and by no later than 31st May each year, cause the Treasurer to introduce into the Parliament, the bill to authorise creation of the required credit;
- (e) use the Proclamation of the bill as amended by Parliament, as the authority for a national credit issue.

(2) Such bill shall be subject to normal constitutional procedures and requirements, as a law appropriating monies.

(3) Nothing herein, shall prevent the submission and enactment of more than one bill each year for a national credit issue through this Division of the Bank.

(4) Under authority of the Manufacturing Industries National Credit Issue Act, the Bank shall credit an account designated the “Manufacturing Industries National Credit Issue Account” the total amount authorised by the Act. From such account the Bank shall pay to the credit of a “Manufacturing Industries National Credit Issue Drawings Account” with the Chartered Banks or branches of the Bank nominated by the respective recipients, such monies. in tranches, to cover the monthly approved credit advances to all such recipients nominating each such Chartered Bank or branch of the Bank.

(5) The Chartered Banks and branches of the Bank shall effect transfers from their respective drawings accounts, to the credit of the borrowers’ account, after completion of all security arrangements detailed in Sub-sections (6) and (7) and after approval by the Chartered Bank or branch of the Bank, of the invoices for work carried out, or goods and property purchased, in connection with each project funded wholly, or in part, by the national credit issue.

(6) The Bank or Chartered Bank, shall in every instance, take a security charge over the asset created, enhanced, constructed, or purchased, whether plant, machines, unsold products, land, and the like, related to the purpose for which the credit is authorised.

(7) The Chartered Bank’s liability to the Bank in respect of national credit issues under this Division, shall be secured by a floating or specific charge, and discharged upon repayment of the amount of the original credit and all other appertaining charges.

(8) Interest, and all other charges payable by the manufacturing industry borrower, shall not exceed five per cent per annum, based on the outstanding balance of any loan whether wholly, or in part, comprising a national credit issue, and whether arranged with a Chartered Bank, or a branch of the Bank.

## **International Division**

40. The International Division is responsible for administration of exchange control, and provisions of this Act relating to gold, and if, and when required, the exchange and clearance of financial instruments and other international matters.

(1) The International Division shall:

- (a) administer the exchange control provisions of this Act;
- (b) administer the provisions of this Act relating to gold;
- (c) administer any consolidating legislation which requires the Bank to regulate the clearance, settlement or transfer of financial instruments;
- (d) deal with any matter or issue relating to international affairs, within the powers of the Bank, including provision of information to, and cooperation with, the Commission, established in accordance with the provisions of the *Foreign Debt Moratorium Act*.\*

(2) This Division shall impose restrictions and controls on, and regulate and monitor, and if necessary, prohibit transactions involving any foreign exchange, or the dealing in Australian currency or Australian financial instruments by non-residents of the Commonwealth. Such transactions may involve but are not limited to:

- (a) rates of exchange;
- (b) the buying, borrowing, selling, lending, exchanging, or that which has the effect of such, or any other dealing or transaction that relates to Australian currency, or Australian financial instruments whether within, or outside the Commonwealth, by a non-resident of the Commonwealth;
- (c) the taking or sending out of the Commonwealth, and the bringing or sending into the Commonwealth, of Australian or foreign currency, or Australian or foreign financial instruments, including the transfer of such instruments from a register outside the Commonwealth to a register within the Commonwealth or vice versa and also the transfer of Australian financial instruments between registers outside the Commonwealth;
- (d) the buying, borrowing, selling, lending, exchanging, or that which has the effect of such, or any other dealing or transaction that relates to foreign currency, or foreign financial instruments;
- (e) the making of markets in Australian financial instruments or foreign financial instruments within or partly within the Commonwealth by a non-resident of the Commonwealth;
- (f) any transaction that has the effect of, or that otherwise relates to, the buying, selling, leasing, or exchanging of, or other dealing with property, that is outside Australia, by or on behalf of a resident of the Commonwealth or the buying, selling, leasing, or exchanging of, or other dealing with property within the Commonwealth by a non-resident;

(3) This Division shall be responsible for administering the following provisions regarding gold within the Commonwealth:

- (a) a person shall not take, or send any gold out of the Commonwealth, unless prior consent, in writing, of this Division, be first obtained. Such consent shall only be granted in exceptional circumstances, or in the event of national emergency. The Bank shall lay before the Parliament, a copy of any consent so granted, and the reasons therefore;
- (b) this Division shall be a permanent buyer for all gold produced and traded in the Commonwealth and the price to be paid shall be, subject to Sub-clause (g), not less than that published by the Bank in the Gazette;
- (c) this Division may purchase foreign gold as it determines necessary;
- (d) any person who owns gold, not in gold coins, the total value of which exceeds \$100,000 where such gold is not used in connection with the purpose of the person's lawful profession or trade, shall deliver the gold to the Bank within one month of coming into possession of such gold;
- (e) where a person lawfully in possession of gold for his/her profession or trade, ceases that profession or trade he/she shall deliver all such gold subject to Subclause (d) to the Bank within one month of his/her ceasing that profession or trade;
- (f) all gold delivered in pursuance of this section shall thereupon vest in this Division, absolutely free from any mortgage, charge, lien, trust or other interest, in, or affecting the gold, and the Bank shall pay for the gold, to the person delivering the gold, on behalf of all persons having any interest in the gold, an amount determined in accordance with this section and this Division shall not be under any liability to any other person claiming any interest in the gold;
- (g) the price to be paid for any gold delivered in pursuance of this section, shall be determined by this Division, and based on the estimate of this Division as to an equitable cost of production, plus a fair margin for profit;
- (h) a person shall not sell, or otherwise dispose of gold, to a person other than this Division;
- (i) a person may buy gold from this Division solely for the purpose of using it in his/her lawful profession or trade.

- (4) This Division shall work to establish an international gold reserve system to support trade between all nations.
- (5) No international treaty, protocol, covenant or the like, or memorandum signed with non-Australian bodies which relates to banking or economic matters, shall be valid or binding unless such document has first been approved by the Board, and ratified by Parliament.
- (6) This Division may receive and deal in the notes, financial instruments, and specie of other nations, and has authority to maintain “Nostro” and “Vostro” accounts for its dealings with foreign banks and for the dealings of foreign banks with this Division of the Bank.
- (7) This Division shall prepare for approval of the Board, a parliamentary bill in the terms described in the Regulations for a “Gold Purchase National Credit Issue Act”, for a national credit issue to pay for the costs of purchasing.
- (8) Upon approval by the Board, this Division shall cause the Treasurer to introduce into the Parliament, the bill to authorise creation of the required credit, and the International Division shall use the Proclamation of the bill, as amended by Parliament, its the authority for a national credit issue.
- (9) Such bill shall be subject to normal constitutional procedures and requirements, as a law appropriating monies.
- (10) This Division Shall credit an account designated the “Gold Purchases National Credit Issue Account”, with the total amount of each national credit issue, authorised by the Act. From such account it shall issue currency for the purchase of gold.
- (11) Each financial institution shall, within 30 days of the Proclamation of this Act, notify this Division of all foreign currency in its possession or under its control. Such foreign currency shall not be used except with prior written permission of this Division and as specified in the Regulations.
- (12) This Division shall have power to reverse any transaction undertaken up to twelve calendar months prior to this Act coming into force, by any financial institution, where it appears that the purpose or consequence of such transaction was other than the financing of lawful trade in physical goods, or which otherwise would be inconsistent with the provisions of this, Act, if it were at the time of such transaction, enacted as a law of the Commonwealth.

## **PART VI—COMMONWEALTH NATIONAL CREDIT BANK SERVICE**

### **Appointment of Officers**

41. (1) The Bank may appoint such officers as are necessary for the purposes of this Act.
- (2) The officers appointed under this Part shall constitute the Commonwealth National Credit Bank Service.
- (3) Subject to this Part, and to the Regulations, officers hold office on such terms as the Bank determines.

### **Requirements for Appointment**

42. A person shall not be appointed under this Act to the Commonwealth National Credit Bank

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\* See page 39-42, *Sovereign Australia Part II: The Legislative Program To Save Our Nation*, Citizens Electoral Council, 1994

Service, unless:

- (1) he or she is an Australian citizen;
- (2) he or she makes and subscribes before a Justice of the Peace or a Commissioner for taking Affidavits, an oath or affirmation of allegiance, in accordance with the form described in the Regulations;
- (3) the Bank is satisfied as to his/her or her health and physical fitness for the work involved.

Regulations for Bank Service

43. The regulations may make provision in relation to the Commonwealth National Credit Bank Service, and in particular, may prescribe terms and conditions of employment of officers.

### **Superannuation Fund**

44. (1) There shall be a Superannuation Fund of the Bank.  
(2) The Bank may, with the approval of the Minister for Finance, make rules not inconsistent with this Act or the Regulations, for, or in relation to, the Superannuation Fund.

### **Borrowing by Members of the Board and Officers**

45. (1) In respect to any member of the Board, or officer, or employee of the Bank, the Bank shall not:
  - (a) lend money; or
  - (b) provide guarantees relating to the payment of money, provided that any loans or guarantees to which this section applies, were issued prior to Proclamation of this Act. Such loans or guarantees shall be permitted to continue for a period not exceeding ninety days from the date of Proclamation of this Act.

Indemnity of Personnel
46. (1) The Chief Executive and Deputy Chief Executive, and other members of the Board, and other persons employed by the Bank, shall be indemnified by the Bank in respect of any liability, loss, claim, or proceeding incurred, or made by any person, whilst such officer, members, or other persons employed by the Bank, are acting within the scope of their duties.

## **PART VII—MISCELLANEOUS**

### **Head Office**

47. (1) The location of the Head Office of the Bank shall be determined by the Board.  
(2) The Head Office of the Bank shall not be in the same building as any other bank or person.

### **Branch Offices of the Bank**

48. In the exercise of its powers and the performance of its functions, the Bank may establish branch offices at such places, whether within or beyond Australia, as the Board determines.

### **Agents**

49. (1) In the exercise of its powers and the performance of its functions, the Bank shall not:
  - (a) arrange with any person to act as agent of the Bank whether within or beyond Australia; or
  - (b) act as the agent of a bank carrying on business within or beyond Australia.

### **Guarantee by the Commonwealth**

50. The Commonwealth is responsible for the payment of all monies due by the Bank, but

nothing in this section authorises a creditor or other person claiming against the Bank to sue the Commonwealth in respect of his/her or her claim.

## **Taxation**

51. The Bank is not liable to taxation under any law of a State or of a Territory to which the Commonwealth is not subject, and the income of the Bank is not liable to income tax under any law of the Commonwealth.

## **Audit and Public Accountability**

52. (1) Within the bounds of sound and ethical commercial practice, all activities of the Bank shall be made public.
- (2) The Bank shall not be exempt under the Freedom of Information Act.
- (3) Within thirty days of the close of each calendar month, a statement of the accounts and activities of the Bank shall be made to Parliament, and all records shall be audited quarterly. Such statement is to be available to the public at the cost of printing and postage.
- (4) All records relating to Australia and the International Monetary Fund, Bank for International Settlements and World Bank, are to be a matter of public record after expiration of one year.

## **Annual Reports and Financial Statements**

53. (1) The Board shall, as soon as practicable after each 30th June, and in the terms detailed in the Regulations, prepare and submit to the Parliament:
- (a) a report on the operations of the Bank during the year ending on that day;
  - (b) a report on the operations of the financial institutions during the year ending on that day; and
  - (c) a report on the economic state of the nation.

## **Power to Improve Property and Carry on Business**

54. Where the Bank holds any property, (whether real or personal), or business (including a bank), as security for a loan or advance, and the property or business passes to the Bank due to failure or default of the owner under the terms or conditions of the loan or advance, the Bank may maintain, repair or improve the property, or carry on the business, until the Bank can, in its discretion, dispose of the property or business, in the best interests of the Bank.

## **Priority of Debts Due By Other Banks**

55. Notwithstanding anything contained in any law relating to the winding up of companies, debts due to the Bank by any financial institution shall, in winding up, have priority over all other debts other than debts due to the Commonwealth and the depositors of the financial institutions.

## **Regulations**

56. (1) The Board may make Regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, for carrying out, or giving effect to this Act, or for the conduct of business by the Bank, and in particular, prescribing penalties for offences against the Regulations, not exceeding a fine of \$100,000 and confiscation of all benefits derived from such violation.
- (2) The Regulations shall apply both within and without Australia.

## **Penalties**

57. (1) A person who contravenes a provision of this Act specified in column 1 of the table at the end of this section:

- (a) if the contravention continues beyond the end of the day on which it commenced—is guilty of an offence in respect of each day during the whole or part of which the contravention continues (including the day of conviction for any such offence or any later day); or
- (b) in any other case of contravention, is guilty of an offence.

(2) An offence in relation to a provision of this Act specified in column 1 of the table is punishable, on conviction, as follows:

- (a) if the letter A is specified in column 2 opposite to the reference to the provision in column 1:
  - i. if the offender is a natural person—by a fine not exceeding \$20,000, and in default, to gaol for a term not exceeding one year;
  - ii. if the offender is a body corporate—by a fine not exceeding \$50,000;
- (b) if the letter B is specified in column 2 of the table opposite to the reference to the provision in column 1:
  - i. if the offender is a natural person—by a fine not exceeding \$100,000, and in default, to gaol for a term not exceeding two years;
  - ii. if the offender is a body corporate—by a fine not exceeding \$250,000;
- (c) if the letter C is specified in column 2 of the table opposite to the reference to the provision in column 1:
  - i. if the offender is a natural person—by a fine not exceeding \$250,000 and in default, to gaol for a term not exceeding ten years;
  - ii. if the offender is a body corporate—by a fine not exceeding \$1,000,000.

(3) Every director, officer or agent of a company which directed, authorised, assented to, acquiesced or participated in the commission of an offence by the company is guilty of an offence and liable on conviction to a penalty for each offence as a natural person as detailed in Sub-section (2).

(4) Nothing in this section is intended to imply that Section 4K of the Crimes Act 1914 does not apply to offences against this Act or the Regulations.

<b>Table of Offences</b>		
Item	Column 1	Column 2 (Penalty Level)
1.	Section 12	A
2.	Section 16	A
3.	Section 17	A
4.	Section 23	B
5.	Section 26(1)(b)	B
6.	Section 26(2)	B
7.	Sub-section 27(4)	C
8.	Sub-section 33(4)	B
9.	Sub-section 33(10)	B
10.	Sub-section 33(12)	C
11.	Sub-section 33(14)	B
12.	Sub-section 40(2)	C
13.	Sub-section 40(3)	C
14.	Sub-section 40(5)	C
15.	Sub-section 40(10)	B
16.	Sub-section 40(11)	C
17.	Sub-section 42(1)	A
18.	Sub-section 42(2)	A
19.	Sub-section 45(1)	A
20.	Any other provision	A