

Achim Drescher  
Private Citizen of Australia  
[email: Achim Drescher](mailto:Achim.Drescher)

11 August 2019

Manager Black Economy Division  
The Treasury  
Langton Crescent PARKES ACT 2600

Dear Sir/Madam,

**Re: Submission to bill *Currency (Restrictions on the Use of Cash) Bill 2019***

Please accept this as my submission of comment to the draft:

- *Currency (Restrictions on the Use of Cash) Bill 2019;*
- *Currency (Restrictions on the Use of Cash – Expected Transactions) Instrument 2019;* and
- *Currency (Restrictions on the Use of Cash) (Consequential Amendments and Transitional Provisions) Bill 2019.*

### **Summary**

I am strongly opposed to the before mentioned bill to restrict cash transactions. In its current form the draft is unacceptable. The Treasury has not sufficiently proven that the proposed measures to control black economy activity are effective beyond measures already in place.

The enforcement of the new legislation will in no way improve the law enforcement as the methods of identifying criminal activity will be same as is now.

The criminalisation of the use of cash is unacceptable and a massive overreach of the executive branch of government. In my view this move is unconstitutional as it restricts the freedom of the individual to use their property as they feel fit. In its current form the bill provides too much power to the Treasury with a lack of check and balances. Definition of exemptions and threshold should not be allowed by regulation through the Executive branch, but through legislation by properly elected legislators in parliament.

My concern is that the economic consequences of disallowing cash could not only be devastating to individuals, but for the economy as a whole. The net result is that we as a nation have to rely completely on an electronic banking system that has high risk factors unrelated money transactions and deposits. Before we can move to such drastic measures as criminalising the use of cash we will need legislation that strictly separates the financial exchange of money from high risk investment banking.

My recommendation is to drop this bill all together. As a minimum the bill must be refined with the following steps:

- Exclude private transactions as a whole from the bill
- Adjust the maximum threshold of allowed cash transaction in line with inflation figures each year
- Any changes to thresholds and exemptions must be approved by parliament instead of allowing treasury to change them
- Restrict the duration of this law to a maximum 5 years with a review by parliament in regards of the effectiveness of the measures.

### **Constitutional Concerns**

I would question the constitutional validity of the proposed bill as it imposes severe restrictions on the freedom of citizens and residents to use their property as they see fit. I find it unacceptable to not only make the use of ones property a criminal act, but also turn the proof of lawfully obtaining this property a responsibility of the individual.

Proof of criminal activity must come from the accuser not the accused. The maximum acceptable measure would be reportability of large cash transactions which is already in place.

### **Governmental Overreach**

The bill in its current draft constitutes a gross overreach of the Executive Branch. Criminalisation of the use of lawfully obtained property is unacceptable. The proposed system of allowing the Minister of Treasury to change key thresholds and exemptions gives too much power to the Executive in a very sensitive and important area of the economy.

### **Failed Mandate of Providing a Monetary System**

Cash is an important part of a functioning economic system. It is the mandate of the Government to provide this infrastructure. The proposed legislation is failing this mandate by criminalising the use of cash. Restricting money transaction to only electronic means makes the system vulnerable to cyber attacks and risks of a privately managed banking systems. There must be a system controlled by government that allows enough privacy for the individual.

### **Risks in the Financial System**

The net effect of removing a government controlled financial system (cash) with a system that relies solely on a private sector banking system that is exposed to commercial risks is in my view extremely risky move. In the current state of our banking system with exposure to trillions of dollars of potentially bad mortgages and an even higher exposure to derivative trading, it is irresponsible to lock private, law abiding and risk adverse citizens into a financial system with intrinsic risks.

What will happen when the current banking system is failing? How do we guarantee a functioning financial system if all control is given to the private sector?

Before Australia can move to cashless society a reform of the banking system needs to be performed that separates high risk banking practices from transactional banking and deposits.

### **Removal of Bail In**

Given the high risk on the current banking system legislation to Bail-in practices must be reversed. It is not fair for ordinary Australians to be exposed to the risk of losing their hard earned savings by reckless banking practices and mismanagement.

The proposed legislation virtually locks Australians into the banking system and exposes citizens to risks that are not under their control.

### **Proof of Effectiveness of Proposed Law**

In my view the Government has failed to prove the proposed measures are effective against the Black Economy. In a study of the German Central Bank it was found that only 5% of the black transactions will be captured in a cashless economy.

(<https://www.bundesbank.de/resource/blob/634950/803cf541deb87a4433533e7196c2cd96/mL/2017-04-24-schneider-data.pdf>)

This makes this law highly disproportional in its effect on the general public versus the effective improvement of enforcing money laundering and tax laws. I fail to understand how the government is planning to enforce this law better than the methods they already have at hand to investigate the underlying criminal offences this law is aimed at.

Can the government outline what measure they are planning to put in place to enforce this law. Cash transactions in their nature are undetectable unless they are triggered from an electronic transaction or severe surveillance. In this context the law is not more effective than any other existing laws and would not be required.

I would regard the surveillance required to enforce this law as an unacceptable intrusion of privacy.

### **Negative Interest Rates**

In our current climate negative interest rates are a real possibility. This will affect ordinary Australians that cannot easily fulfil their dream of financial freedom and their own home if they get locked into a financial system that penalises them for holding savings and that does not guarantee their deposits.

The concept of compound interest will work against them making it even harder for them to buy their first property.

### **Sentencing Guidelines**

Sentencing of 2 years imprisonment is unjust and over the top. This severity of sentencing is unacceptable when people just use their hard earned dollars. If the money was obtained illegally it would be acceptable but not when the money is rightfully theirs.