Banking Legislation Amendment Bill 1989

Date Introduced: 4 May 1989
House: House of Representatives
Presented by: Hon. Peter Morris, M.P., Minister for Industrial Relations

Digest of Bill

Purpose

To remove the distinction between trading and savings banks and replace the Statutory Reserve Deposit (SRD) requirement. The Bill will also provide a statutory basis for the Reserve Bank’s role to supervise, monitor, and investigate certain aspects of banking operations.

Background

The banking and finance industry is a significant contributor to the Australian economy providing approximately 10.9% of GDP over the period 1969–86. In 1987, the Australian banking system consisted of a central bank (the Reserve Bank), over thirty banking companies operating trading and savings bank business, a Commonwealth Banking Corporation and some development and specialist banks. These banks conduct their business through a network of almost 6000 branches and 2000 agencies, employing over 125,000 staff. The four largest Australian trading banks include the Westpac Banking Corporation with $60 billion in assets, the Australia and New Zealand Banking Group Ltd with assets of $57 billion and employing 39,000 staff, the National Australia Bank Ltd with assets of $42 billion, and the Commonwealth Bank of Australia with $39.6 billion in assets.¹ On 18 May 1989 the National Australia Bank announced a half-year pre-tax profit of $692.3 million, an increase of 35% over the previous corresponding six months to March 1989. Westpac reported a pre-tax profit of $596.7 million, a rise of 12%.²

Under the SRD system, trading banks are required to pay a certain percentage of their deposits to a central fund. The amount held in SRD’s may be called upon on some occasions. While the system is aimed at ensuring that banks have an adequate cash backing, it is also favourable to the government, as only nominal interest is paid on the funds. The SRD ratio has been 7% since January 1981. In the August 1988 budget the Treasurer announced the phasing out of SRD’s over a three year period. The 7% ratio will be phased down to under 1%, and the new deposits will not be called upon. In the explanatory memorandum to the Bill, it is estimated that the measures contained in the Bill will cost approximately $100 million in 1990–91.
Generally, since the deregulation of the 1980s, trading and savings bank business is undertaken by all banks in Australia today. Few banks remain as just savings banks and none act as trading banks to the exclusion of savings bank activities. In the August 1988 budget the Treasurer announced the removal of the distinction between savings and trading banks.

Supervision of banks has the following objectives: to fostering a stable banking system, encourage each bank to keep itself in a sound financial position, and promote the conduct of banking business with integrity, prudence and professional skill. Specific aspects of bank supervision include ownership and control of banks; capital adequacy of banks (i.e. banks are expected to maintain capital resources adequate to the size and nature of their business); and the use of external audit (i.e. the Reserve Bank receives from banks external auditors, information on observance of prudential standards, on the effectiveness and observance of risk management system, and on compliance with statutory or supervisory requirements). In May 1987 the Treasurer announced the Government's intention to introduce amendments to the Principal Act which would make more explicit the power of the Reserve Bank in relation to the prudential supervision of banks.

Main Provisions

'Prudential matters' are defined as the acts of a bank to keep itself in a sound financial position, to not cause or promote instability in the Australian financial system, and to act with integrity, prudence and professional skill (clause 4).

The Governor-General will be able to impose, vary, or revoke conditions on an authority carrying on banking business. (Currently, conditions may be varied only where conditions were imposed on the issue of the authority. The effect of this provision is that conditions may be imposed, varied or revoked at any time). Such a condition may be contrary to the regulation – proposed sub-section 9 (5) (clause 5).

A new Division 1A of Part II (proposed sections 11A–11C) will be inserted into the Principal Act by clause 6. The regulations may provide for banks to observe prudential matters (proposed section 11A). The functions of the Reserve Bank will include the collection and analysis of information in respect of prudential matters, the encouragement and promotion of banks to carry out sound prudential practices, and evaluating compliance with prudential practices (proposed section 11B).

A new Division 3 of Part II (proposed sections 17–25) will be inserted into the Principal Act by clause 11 and will establish the new non-callable deposits scheme. Proposed section 18 provides that the Reserve Bank, subject to the Treasurer's approval, may direct which assets or liabilities of a bank will be used to calculate the non-callable deposit (NCD) ratio.

Proposed section 20 provides that the Reserve Bank, subject to the Treasurer's approval, may set the NCD ratio (i.e. the percentage of assets or liabilities which all banks have to hold in NCD Accounts). The NCD ratio is not to be more than 1%.
Each bank is to have a NCO Account with the Reserve Bank and have in it an amount equal to its NCO ratio (proposed sections 21 and 22).

If a bank fails to have sufficient funds in the NCO Account, it will be guilty of an offence unless it can be shown that this was due to the day being a Sunday, public or bank holiday in the place where the bank’s head office is located. The penalty will be an additional 20% of one-third hundred and sixty-fifth of the shortfall (proposed section 23).

Proposed section 24 will allow the Reserve Bank, with the Treasurer’s approval, to set the rate of interest which will be payable (each six months) on the funds in NCO Accounts.

Proposed section 25 provides for the repayment of any excess funds in NCO Accounts.

Clause 27 provides for a transitional period ending on 30 September 1991, during which the Reserve Bank, with the Treasurer’s approval, may set different NCO ratios for different banks. Where the Reserve Bank sets a ratio that is higher than 1%, the required balance in a bank’s NCO Account is not to be less than the SRD of that bank on 26 September 1988.

Clause 13 will repeal Division 6 of Part II of the Principal Act which contains the special provision in respect of trading banks. This will effectively remove the distinction between savings and trading banks.

A new Part VI (proposed sections 51 and 52) will be inserted into the Principal Act by clause 15. The proposed Part deals with the collection of statistical information and allows regulations to be made concerning the collection of such information. Information collected that relates only to a prudential matter is not to be made available to the Treasurer, and the regulations are not to require the provision of information in respect of an individual.

A new section 61 will be inserted into the Principal Act by clause 16 to provide that the Reserve Bank may appoint a person to investigate and report on specified prudential matters relating to a bank. The bank is to give the investigation access to its books, accounts, documents, and give them such information and facilities as they require to carry out the investigation.

Clause 17 will amend section 62 of the Principal Act to allow the Reserve Bank to direct a bank or a person who carries on any banking business to provide information about an individual customer if it is required for prudential matters relating to a bank. As above, this may not be disclosed.

Except with the consent of the Treasurer, a person who carries on banking overseas, is not to set up a representative office in Australia. The Treasurer may, at any time, impose conditions, vary, or revoke a consent (proposed section 67).
The Governor—General may make regulations, in accordance with the Treasurer's recommendations, conferring on the Reserve Bank functions to supervise banks in prudential matters (clause 22).

Clause 27 provides for a transitional period ending at 30 September 1991, during which the Reserve Bank, with the Treasurer's approval, may set different non-callable deposit ratios for different banks. Where the Reserve Bank sets a ratio that is higher than 1%, the required balance in a bank's Non-callable Deposit Account is not to be more than the SRD of that bank on 26 September 1988.

References

For further information, if required, contact the Economics and Commerce Group.

19 May 1989

Bills Digest Service
Legislative Research Service

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

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