**From:** Rudolf Rensburg <rudolf.rensburg@gmail.com>   
**Sent:** Thursday, 8 August 2019 12:00 AM  
**To:** RG - Black Economy <Blackeconomy@treasury.gov.au>  
**Subject:** Submission: Exposure Draft—Currency (Restrictions on the Use of Cash) Bill 2019

8 August 2019

Manager Black Economy Division The Treasury Langton Crescent PARKES ACT 2600

Dear Manager,

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

I am writing to express my strong opposition 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.

The proposed bill (and associated instrument) are a major affront and assault to economic freedom in Australia and represents a significant curtailment to Australian civil liberties. The proposed laws would punish individual Australians as to how they wish to spend their private wealth, including whether:

* they wish to conduct transactions independent of Australia’s commercial banking system; and
* they wish to conduct their economic affairs in private.

Moreover, the proposed laws are anti-competitive in nature given that cash transactions (irrespective if they include physical or digital forms of currency) are an alternative to using Australia’s commercial banking sector.

From an economic regulatory perspective, it is highly improper for the Commonwealth to be implementing anti-competitive laws which would effectively force citizens to consume a particular good or service offered by a particular industry which, given the recent Royal Commission into Banking, has a dubious record in servicing customer interests. The proposed law breaches the principles which have underpinned Australian competition policy in recent decades without sufficient justification.

**Concerns with the Proposed Laws**

I have a number of specific concerns in relation to the proposed bill and associated legislative instrument including:

**Concern 1:** The proposed legislation and associated instrument may only be the first step in a series of escalating measures from the Commonwealth which seeks to infringe on the rights on individual Australians and Australian businesses to engage in commerce independent of the commercial banking sector and the RBA’s monetary policy regime (especially if a policy of negative nominal interest rates are pursued).

**Concern 2:** Given that the exemptions to the cash transaction ban are defined in a legislative instrument and not in the proposed bill, this gives the Executive Government via the Assistant Treasurer significant flexibility to remove the exemptions without the robust scrutiny of Parliament.

**Concern 3:** Division 2 of Part 2 (relating to offences) is missing from the draft exposure version of the bill. It is grossly disappointing that concerned citizens have not been able to see the full version of the bill during the current Treasury consultation round.

Given the high interest in this matter, Treasury should consider launching a new consultation round if substantive elements are introduced to the draft bill (or associated legislative instrument) prior to the bill being introduced into Parliament.

**Concern 4:** The bill as drafted creates uncertainty in relation to physical gold and silver bullion. As currently drafted, the cash ban covers physical currency as defined as Anti-Money Laundering and Counter-Terrorism Financing Act 2006. This definition refers to currency which is ‘legal tender’.

Given this definition, it is uncertain what precisely the Commonwealth considers ‘legal tender’ as it relates to physical gold and silver bullion products. For example, are minted coins issued by the Perth Mint that displays the Queen's head the only form of domestic gold and silver bullion that is considered to be legal tender?

Would a domestic commercial transaction above $AUD 10,000 between an individual Australian and an enterprise, which involved physical gold and silver bullion not issued by the Perth Mint (for example, a physical gold or silver bullion bar or coin of 99.9% purity minted by a private commercial bullion dealership) be considered in breach of the proposed law or not?

Unfortunately, neither the proposed bill, the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 or the Currency Act 1965 provides any clear guidance on this question and hence this issue needs to be clarified.

**Concern 5:** It is unclear how the Commonwealth intends to enforce this proposed cash transaction ban. Prior to the introduction of the bill into Parliament, the Government needs to provide clarity as to:

* which Commonwealth institution will be charged with enforcing this law?
* what enforcement techniques will the Commonwealth be expecting to use to monitor whether prohibited cash transactions above $AUD 10,000 are not entered into?
* what operational resources will the Commonwealth be spending (including the dollar amount) in enforcing the proposed law?

Yours sincerely

Rudolf van Rensburg