

AUSTRALIAN LISTED INVESTMENT COMPANIES ASSOCIATION

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The Manager
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The Treasury
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Dear Sir/Madam,

Treasury Laws Amendment (Design and Distribution Obligations and Product Intervention Powers) Bill 2018

We write in response to the exposure draft of the above legislation which is currently open for consultation.

The Australian Listed Investment Companies Association ("ALICA") is the industry body representing many of Australia's traditional Listed Investment Companies ("LICs").

ALICA's 8 members have in excess of 200,000 shareholders and invest for the long term, predominately in Australian listed ordinary shares and listed trusts.

LICs are defined under the Income Tax Assessment Act 1997, and as listed entities are governed by the rules and guidelines applicable to all companies listed on the ASX.

In addition, LICs have to publicly disclose all of their holdings at least annually (and most will do so more frequently than this, including monthly notifications of their largest holdings) and are required to inform shareholders via the ASX of their net tangible backing ("NTA") each month.

Our concerns are over the possible increase in regulatory burden that the proposed legislation could have in our interactions with current and future shareholders for what are very simple vehicles, that are long-established and well-understood parts of many Australians' investments.

We fully understand the desire and need to tighten up the sale of complex and high-risk financial products, but these are not ones that are listed and quoted on the ASX and certainly not LICs, which are simple and transparent vehicles. Their simplicity and transparency, as well as the Corporate Governance associated with ASX-listed entities, is one of the key elements of their attractiveness to retail shareholders such as retirees, charities and long-term savers.

An additional question is raised as to what an LIC's 'Target Market' is, as it is extremely broad and consists of anybody who wishes to invest in the share market either for themselves or for those that they are acting for. With such a broad market, we question as to how these people should be identified. Most issues of new securities in LICs are done to existing shareholders (and we recognise that DRPs, Share Purchase Plan etc. are not included in the new regulations) or through brokers, but having to identify a Target Market where LICs issue instruments directly to the retail shareholding public or indeed through brokers will be difficult unless it is extremely broad.

Potential Solution 1

We note that ordinary shares are exempt from the legislation but investment companies have been specifically included. Whilst we understand the reasons for doing so, i.e. to ensure that structures are not used to get around the legislation, we would suggest that as a minimum the legislation should be amended so that only **unlisted** investment companies or investment companies that are not applying for a listing are specifically included. Listed Investment Companies are listed vehicles that themselves own, on behalf of their shareholders, predominantly listed ordinary shares (with cash and listed trusts making up most of the balance) that are exempt from the legislation.

Concerns over other listed instruments

The question still arises as to the exclusion of ordinary shares only. This means that convertible notes, preference shares, fixed income securities issued by companies listed on the ASX or securities in listed trusts still require a Target Market Determination. We presume that there is no intent to restrict trading on the secondary market in any listed instrument – this would be a catastrophic increase in regulation and impede the effective operation of the stock market.

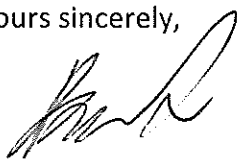
It would therefore be impossible in the current efficient environment for any issuer to track whether investors have bought and sold outside the Target Market subsequent to issuance.

Potential Solution 2

Another possible solution would be to exempt all securities that are offered for ASX listing under a prospectus, in addition to the current exclusions of offers direct to existing shareholders (e.g. DRPs and rights issues). This would enable both primary and secondary share markets to continue to operate effectively whilst focusing ASIC's attention on the unlisted, and higher-risk, financial products.

We are happy to discuss any of the above in more detail at your convenience.

Yours sincerely,



A J Hancock
Secretary