

Director Corporate Tax Policy Unit Treasury Langton Cres Parkes ACT 2600

By email: frankeddistconsult@treasury.gov.au

Dear Director, Thank you for the opportunity to submit a response to the consultation on the proposed legislation relating to Franked Distributions and Capital Raising.

I object to the proposed legislation changes. I believe the draft legislation is inequitable to Australian companies and shareholders and it could inadvertently impact situations of legitimate company operations.

The draft legislation fails to recognise the fundamental principle underlying the franking regime and the reason for its creation, the avoidance of double taxation on company earnings.

The Franked Distribution and Capital Raising draft legislation, if widely applied, will lead to the demise of the franking system. It will stop Australian companies who issue new shares under a Dividend Reinvestment Plan (DRP) from paying franked dividends and significantly increase the cost of capital for all franked dividend paying Australian companies. It will also risk the stability and integrity of the Australian banking system by inhibiting effective capital raising during challenging economic periods such as the start of the coronavirus pandemic.

If passed, its application would also unfairly burden Australian investors with retrospective tax debts, to be paid at a time of economic uncertainty.

I think the policy isn't wrong – companies should not be raising capital then paying special dividends etc but how do you establish correct behaviour from wrong behaviour? In a fast changing economic environment it is very possible that a company may on the one hand raise capital – for an acquisition, then a couple of years later make franked returns to shareholders having done well and correctly – look to reward shareholders and release excess capital. Or for example, due to the Covid panic in 2020, the CBA **may** raise capital to – again correctly – shore up the balance sheet only to end up with excess capital, when, as a result of the Hayne Commission they had embarked on large scale asset sales which have now completed -AND- the Covid meltdown didn't eventuate resulting in expected loss writebacks leaving the bank in a much stronger position than anticipated. So they reward shareholders with an off market buyback. Now, the retrospective nature of this legislation should jeopardise those franking credits received? This would be so UNJUST. It was all done under the rules as they stood at the time and we invested and acted under the rules as they stood at that time. As INVESTORS (small time) we INVESTED. IF this legislation was to now impact us, what you are saying is that we should have TRADED shares and gambled instead. Just like the big end of town does. So the effect is to penalise the small people and reward the big end of town. As I write this, the big end of town is still in line for a tax cut. This from a Labor government? We are low income earners who don't earn enough to pay income tax – but of course we DO pay tax since so much of it is now indirect. We do a lot of unseen community work – we are not bludgers. The franking credits are very important to us. Any retrospective application of this legislation in whatever form it finally takes would hit us hard when inflation is already hitting us hard and as already stated is absolutely unjust – moving the goal posts after the fact !

Finally, the **AIM** of the legislation is well meaning but just like the previous franking credit fiasco is in danger of being poorly targeted. That too, would have hits us hard given our low income. And yet, the SMSF's of many rich people are draining gov revenue. Yet Chris Bowen refused to improve **the aim** of the legislation. When the franking credits refundability came in under Howard small shareholders (under \$5000 in franking credits) had certain exemptions like the 45day holding rule. If **WE** were looking to exploit the situation we would have put all our savings into shares. WE DID NOT. Our franking credit refund was way below the \$5000 threshold in all the years since. And yet we felt

targeted by the previous proposed changes as we do by the current ones. This has and is causing us a lot of stress and distress.

Please consider the circumstances of ourselves and other small time retirees etc in forming any new legislation. Under Howard, when the franking reform came in, I believe that the cost to the government was under 1 billion - \$800m ? Those of us who have stuck to the rules and played to the rules would still cost the government the same 800m (less, because that was in 1990's dollars!) So the obvious amendment needed to any change to the franking credit regime is to CAP the cost to the government at say \$1b or similar amount. Say maximum refundable amount of \$1000 per investor. In that way, the only ones punished are the ones abusing the system by raking in \$25,000 pa or more and costing government revenue something like \$14b pa I believe - ?

Retrospectivity is the main concern. This is simply unacceptable. It sets a dangerous precedent re citizens trusting their government. It would amount to a cash grab and complete loss of trust. I don't see that former CEO'S of CBA for example are being hit retrospectively to answer for misdeeds committed under their watch! Just quietly, they should be. Instead the current CEO carries the apology can and the shareholders take the financial hit. Any retrospective application of this intended legislation would AGAIN hit the shareholders who neither did anything wrong nor had a say in any company's policy regarding capital raisings or shareholder payouts.

Yours sincerely,

John Adams