

**Director  
Corporate Tax Policy Unit  
Treasury  
Langton Cres  
Parkes ACT 2600**

By email: [frankeddistconsult@treasury.gov.au](mailto: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.

We **object** to the proposed legislation changes.

We 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 that 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.

**Our personal story is this.** We are both retired and live off the earnings of our superannuation fund and other investments. We are not a drain on the Social Security system as we do not receive any Government benefits, apart from a Seniors Health Care card. This is the way we have planned our financial future over all our working lives so that we would be completely independent and not a burden to the Australian taxpayer. Investing in Australian companies that pay a dividend with a franking credit attached is a keystone of our philosophy, and it has worked well since retiring.

We object strongly to the proposed changes as they will have a dramatic effect on our situation, not to mention impacts on the raising of capital for companies and other issues raised above. The proposal to backdate it to 2016 is completely draconian and punishes those who have not broken any laws or ripped anybody off as these proposed changes were never legislated. Tax laws should not be allowed to change retrospectively when Australians have budgeted for and paid their lawful tax assessment based on existing tax law in place.

In April 2020, during the middle of the Covid pandemic, APRA provided guidance to all authorised deposit-taking institutions, primarily impacting Australia's big four banks, on capital management. This guidance included an expectation that Boards would seriously consider deferring decisions on dividends given the economic uncertainty due to the coronavirus pandemic. It would also offset any dividends to the extent possible through other capital management initiatives, including DRPs and other capital raising initiatives to partially offset the diminution in capital from the payment of

franked dividends to shareholders. As Australia moved beyond the initial phase of response, APRA updated the guidance to assist longer-term capital management enabling banks to fulfil their role in supporting economic recovery. As part of this, APRA recommended they actively used DRPs "and/or other capital management initiatives" to offset the reduction in their capital base and balance sheets from making franked dividend payments to their shareholders. The proposed drafting of the legislation changes will risk the stability of the Australian banking system by inhibiting effective capital management during challenging economic times. This is not the time to be playing around with major decisions affecting capital management and the strength of the Australian banking system, which is one of the most robust and dependable systems in the world.

We reiterate **our strong objection** to this proposed change and respectfully request that it be reappraised. Change the system going forward if you wish, but do not make it retrospective.

Yours sincerely,

Andrew and Margie Bills