

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.

I am a 73 year old Australian citizen, retired for eight years, primarily supported by an Industry Superannuation Fund Income Stream and a modest Public Service Superannuation Pension, with income supplemented by share dividends (direct ownership) and (recently) an Age Pension (small part pension).

**I object to the proposed franked distributions and capital raising legislation changes.**

I believe the current drafting will have (presumably) unintended and significant consequences for companies that have engaged and will engage in capital raising activities, and that have made and will make franked distributions to shareholders such as myself. According to the Explanatory Materials, the legislation deals with companies and similar entities that seek to manipulate laws related to franking credits, distributions and capital raisings, seeking to **unfairly benefit** from the current system. If that was **clearly** the limit of the proposed legislation, I would endorse it wholeheartedly however the legislation as currently proposed could **inadvertently impact legitimate company operations**.

**1. Managing cash flows between capital raising and distributions can represent the normal and legitimate flow of commercial capital management**

The Franked Distribution and Capital Raising draft legislation, if widely applied, could effectively 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. If such companies are consequently forced to borrow capital funds as an alternative to raising capital from shareholders or the market, **the legislation will significantly increase the cost of capital, reduce earnings and profits, and increase commercial risk for franked dividend paying Australian companies**.

**2. Tax laws should not change circumstances retrospectively when Australians have undergone full and lawful tax assessment based on the existing tax law in place at that time.**

If passed, the legislation's retrospective application will increase both the perceptions and realities of commercial risk. Retrospective application would undermine the confidence of Australian companies, shareholders and taxpayers - the confidence that, at any particular time, they have been, are, and will be, operating within a known and accepted commercial structure and financial

framework and processes. Such **confidence is key** to the planning, development and growth a company undertakes.

This confidence in structure and framework is certainly **a vital element in a shareholder's confidence** that they are at least **able to invest in a system that is known, stable and consistent**, despite all the other uncertainties that investing in the Australian share market may entail.

Undermining this confidence may have far reaching consequences for new investment in the future.

### **3. The proposed retrospective aspect of the legislation would burden Australian shareholders.**

Retrospective tax debt creation and collection will extend to Australians who have planned or are planning or are currently in retirement, placing stress on individuals and ultimately on the Australian pension system.

If the superannuation system becomes directly or indirectly affected by a wide application of this proposed legislation, the number of Australians adversely impacted will number in the millions.

While clearly aggravating the undermining of shareholder confidence as mentioned above, retrospective tax debts are an unfair burdening of Australian investors, such debts stemming in part from a time of economic uncertainty (Covid pandemic), and to be paid at a time of further economic uncertainty (inflation and monetary measures to counter inflation).

This is particularly concerning for those (such as me), who rely heavily or even completely on fully franked dividends as income.

The draft legislation may inadvertently or otherwise undermine the fundamental, basic principle of the franking regime and the reason for its creation, the avoidance of double taxation on company earnings. At the very least, the confidence of Australian investors will be eroded.

Please contact me if you have any questions on this submission.

Yours sincerely

David Livingston