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/we] object to the proposed legislation changes.
[I/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 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.
[Add your own story if you wish]
Please contact me on [enter number / email address] if you have any questions on the below
submission.
Yours sincerely,
Merle Thomas

There was no mention of this during the election. I am tired of governments making changes especially retrospectively. With the Morrison changes to super I saw many very worried elderly people trying to adjust their super to the new requirements, and this will be just another nightmare for them. Many who are affected are those who have saved the government money by living frugally and saving for their retirement.

If the government is seeking money try spending less. Early in my career I was paid less than a male. My employer superannuation contributions were forfeited on marriage. I paid for my own child care. We paid to put our children through university. We were not wealthy, but made good use of what we had. I believe in supporting the truly needy, not those who have lived lavishly and squandered their money. Try billing the people you are bringing back from Syria who had no allegiance to Australia. Too many people get government benefits who have made little contribution to Australia. You only have to be a resident for 10 years to collect the Age Pension. Ensure the Hecs is repaid before recipients leave for overseas. Hecs debt could be taken from estates on death. There are plenty of avenues for you to pursue if extra finance is required.

1. There would be unintended consequences based on the current drafting of the proposed
legislation
As drafted, the proposed legislation does not sufficiently distinguish between acceptable activities and
the tax avoidance situations it intends to address. The proposed legislation would appear to
inadvertently impact situations of legitimate company operations and could accordingly delay or
discourage the normal processes of capital raising, investment and economic growth in Australia and
interfere with the operation and the efficiency of the Australian capital markets and the structural
integrity of our banking system.
For example, irrespective of the various situations of legitimate capital management, capital raising and
franked dividend payments by Australian companies, the draft legislation is broad enough that it could
also capture the well-established act of implementing Dividend Reinvestment Plans (DRPs) and DRP
underwritten capital raisings in the circumstances where, in Treasury's broad view, the established
practice test is not met.
The current draft of the legislation will have severe impacts to our authorised deposit-taking institutions
(Australian banks) and would be contrary to the Australian Prudential Regulation Authority's (APRA)
guidance provided in the most recent time of economic stress during the COVID-19 pandemic.
In April 2020, 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.

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

The drafted legislation removes the ability of operating businesses to legitimately manage and invest
their cash flows productively. Once a company has generated a profit and reinvested it, it can only
create liquidity to pay a dividend by raising debt, selling some of its assets (which might not be viable)
or by raising capital. By removing the ability to raise capital to reward shareholders, companies will need
to increase their debt levels or they will be put in a position where they will be unable to grow and
further develop their businesses. While there are instances of companies manipulating the tax system,
companies that have legitimately earned profits and paid tax should be entitled to choose how they
invest or distribute those profits to their shareholders.

3. The proposed legislation would burden thousands of Australian shareholders who have
planned or are planning their retirement, placing stress on individuals and on the Australian
pension system

The dividend imputation system has not fundamentally changed for over 20 years and implementing
change now, and retrospectively, on people who are already retired and, in many cases, cannot return to
work, will burden individuals, their families and in turn the economy, all of which will face economic
uncertainty.

4. Retrospectively

[I/We] note the retrospective application to 19 December 2016 would unfairly prejudice

franked
dividends paid out to shareholders of Australian companies and leave them with unexpected tax bills for
dividends they have since received, to be paid at a time of economic uncertainty. This is particularly
concerning for those who rely on fully franked dividends as income.
The draft legislation appears to inadvertently target situations of legitimate company operation making
it difficult to form a conclusive judgement as to the legitimacy of historical and future payments of fully
franked dividends by Australian companies.
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.
Conclusion
While [I/we] appreciate Treasury is trying to deal with situations involving tax avoidance and franked
dividend distributions, the proposed legislation, as drafted, will fundamentally change the nature of how
Australian companies manage their capital, increase their cost of capital and negatively impact
Australian shareholders.