

7th December 2022

Director
Corporate Tax Policy Unit
Treasury
Langton Crescent
PARKES ACT 2600

By email: OMSBBpublicconsultation@treasury.gov.au

Dear Sir/Madam

I write to submit a response with regard to the Treasury Laws Amendment (Off-Market Share Buy-Backs) Bill 2022.

I object to the proposed changes and view the draft legislation as unfair to Australian companies and all shareholders.

If applied, Treasury Laws Amendment (Off-Market Share Buy-Backs) Bill 2022 will weaken the franking system.

Off-market share buy-backs and selective reductions of capital are important and established capital management tools for Australian companies and their boards. Any changes to these proven practices will negatively impact Australian companies' capital management choices and have unintended consequences.

Under the proposed amendments to off-market share buy-backs, companies would no longer be able to pay fully franked dividends to participating shareholders as part of the buy-back consideration paid. In addition, the government is also proposing to eliminate franking credits permanently to the extent it would have been paid out in a fully franked dividend to shareholders, should a company wish to conduct an off-market share buy-back in the future. The government is not only limiting a company's ability to distribute franking credits to shareholders, but is now proposing to permanently take those

franking credits away from companies, in turn denying them the ability to distribute legitimate tax payments made on behalf of their shareholders. The above changes were added to the legislation and were not announced in the Federal Budget on 25 October 2022. It is a significant negative addition which looks to further disenfranchise Australian companies and investors.

I ask the government not to look at this proposal in isolation, but rather to view it in conjunction with the submission on Franked Distributions and Capital Raising (which closed for submission to your office on 5 October 2022).

Together, these proposed changes undermine a system that has supported Australian companies and investors through more than three decades of economic stability and growth. During that time, the world has experienced major macroeconomic events such as the global financial crisis and the current system has protected Australian companies, and in turn their shareholders, through these times of economic instability, reducing companies' need to take on unnecessary debt. It has encouraged Australian companies to invest in and pay corporate tax in Australia and emboldened Australians to invest locally. This, in turn, has created more jobs for Australians and provided the additional income tax revenue that Treasury and Government are currently seeking.

The proposed changes fail to recognise the fundamental principle underlying the franking system and the reason for its creation, being the avoidance of double taxation on company earnings. If passed, the proposed changes will unfairly target retail investors, low-income investors and superannuation beneficiaries, while limiting companies' abilities to effectively manage their own capital.

Treasury and Government appears to be underestimating the long lasting and broad-reaching impact these changes will have on Australia. I ask you to reconsider making any changes.

I am 73 years old and seek to provide funds for my retirement with a view to not requiring pension benefits. I have a self-managed super fund the assets of which fluctuate in value, a degree of risk which I bear as an individual. The fund returns around 3.5–4% , a yield which by no means allows for a lavish lifestyle. The proposed changes to legislation would detrimentally effect company dividends, my ability to provide funds for my retirement and therefore my wish to not be a burden on the community.

Yours faithfully,

Jonathan Alford