Director
Corporate Tax Policy Unit
Corporate and International Tax Division
Treasury
Langton Cres
Parkes ACT 2600

By email: OMSBBpublicconsultation@treasury.gov.au

Dear Director,

Thank you for the opportunity to submit a response to the consultation of the Treasury Laws Amendment (Off-Market Share Buy-Backs) Bill 2022.

We object to the proposed changes and believe the draft legislation is unfair to Australian companies and all shareholders.

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

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. So, not only is the government limiting a company's ability to distribute franking credits to shareholders, it 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.

We implore 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).

We believe that both the proposed changes fail to recognise the fundamental principle underlying the franking system and the reason for its creation. 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.

We believe Treasury and Government are underestimating the long lasting and broad-reaching impact these changes will have on Australia and we ask you to re-consider making any changes.

I would like to summarise by making the following points:

- As self-funded retirees, these changes would have a major impact on our annual income. We estimate that our income would be reduced by 25% to 30% per annum;
- The changes would make stock market investments significantly less attractive and we would anticipate reducing such investments accordingly;
- The proposed changes are illogical as they fail to recognise that the company has already paid tax (at the company tax rate) on behalf of shareholders;
- The proposal undermines the long-term planning for retirement which governments like to encourage, but constantly undermine by making changes without much consideration of the longer term;
- Why should younger people invest their hard-earned money into superannuation when they can be sure that governments will change the rules in an ad-hoc manner?
- Made in isolation, the proposed changes unfairly target a relatively small group of people (such as self-funded retirees) and would be seen as punitive;
- Tinkering with a small part of the legislation without a review of the entire superannuation system/mess, unfairly disadvantages some groups;
- The Government's perception of self-funded retirees appears to be that they are a bunch of very wealthy people who are rorting the system and avoiding their fair share of tax payments. Whilst this may be true in a very small number of cases. I don't believe it is representative of the average self-funded retiree.
- Finally, such changes were not outlined in any announcements in the lead up to the recent election. In fact, at the very least, it was implied or even stated that the franking system would not be changed. These changes would rightly be regarded as a broken promise and a betrayal by the government of those people who will be adversely and unfairly affected by the proposed changes.

Yours sincerely,

Arthur & Lynda Pope

(Self-funded retirees)