

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.

My husband and I (2 people) 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 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.

We fought bloody wars for you and suffered the difficulties of the after-war years with little to eat. We worked to pay for the pension of the generation before us and in our later years, to put together enough for ourselves so those presently working did not have to dip into their own pockets for us. And now it seems that the government is hell bent on taking it from us. That might not be your intention, but that is exactly where it will lead. This will NOT be the first time you take aim at our very precious store of money that has to support us for the rest of our lives. At 80+, we are unable to work anywhere. Franking credits are included in our tax return and therefore our money no matter where you take them from. This is just another theft of our retirement years.

With reduced income from shares thanks to the Haines commission which has no creditability because it denied investigating the Industry Funds and the huge amounts of people's money they help themselves to, and no extra money from the government during the pandemic (as government employees have been given over the past few years) and now with massive inflation, we are struggling. Food is now twice the price I paid before labor came to office and we rarely go out because fuel is so expensive. We feel anger and betrayal again from a labor government.

People with SMSFs are mostly not rich but struggling along as best they can. We are honourable people and spend only when we need to. If you want to get the rich guys, aim at those with over \$5 million and tax them accordingly. Leave us be. We just need peace now.

We fully endorse everything listed below.

Yours sincerely,
Ruth and Gary Hooper

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 to retire