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31 March 2023

Senator Jess Walsh
Chair of Legislation Committee
Senate Economics Legislation Committee
PO Box 6100
Parliament House
Canberra ACT 2600

By email: economics.sen@aph.gov.au

To Senator Walsh and members of the Senate Standing Committee on Economics,

Submission on Treasury Laws Amendment (2023 Measures No.1) Bill 2023

On behalf of the 130,000 Wilson Asset Management investors, for whom we invest more than $5 billion, we are pleased to provide a response to the Senate Inquiry on the Treasury Laws Amendment (2023 Measures No.1) Bill 2023.

We object to *Schedule 4: Off-market share buy-backs* (Schedule 4) and *Schedule 5: Franked distributions funded by capital raisings* (Schedule 5) of the Treasury Laws Amendment (2023 Measures No. 1) Bill 2023 put forward by Treasury as we believe it will have significant, long-term unintended consequences on Australian companies and Australian investors, and substantially weaken the franking system that has underpinned Australia's economic stability and growth over the past three decades.

The Australian franking system reduces the cost of capital for Australian companies, which stimulates local investment and in turn employment in Australia. It encourages companies to pay tax in Australia and reduces the tax benefit and incentive of using debt funding, which results in an increase in equity capital raisings and investment opportunities for Australians, less corporate debt, and overall reduced company balance sheet risk. In times of economic uncertainty and volatility, Australian companies taking on risky debt and leverage is a recipe for disaster.

The franking system has encouraged Australian companies to invest in Australia, pay tax in Australia and emboldened Australian shareholders to do the same, in turn creating more local jobs and ownership of Australian companies by Australian citizens.

Our concern is that the Australian franking system that has served Australians and the Australian economy well over the past 36 years will fall into the same demise as the United Kingdom (UK). The UK had a similar system to the Australian franking system called the Advanced Corporation Tax (ACT), which was introduced in 1973 and was slowly dismantled until it was abandoned 26 years later in 1999.

One of the many great attributes of the Australian franking system is that it encourages all Australians, from mum and dad investors to large industry and superannuation funds, to support and invest in Australian companies. This in turn, reduces the cost of capital and provides access to capital for Australian companies. Unfortunately, the fact that the UK does not have a dividend imputation, or franking credit system, alongside the demise of the ACT, has led to a drastic fall in UK investment in UK companies. In 2000, the share of the UK stock market owned by UK pension funds and insurance companies was 39%[1]. By 2020 this figure has plummeted to only 4.0%[1], an extreme and concerning loss in just 20 years.

[1] Office for National Statistics (UK).

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We believe that the proposed legislation changes in both Schedule 4 and Schedule 5 will lead to a fall in investment by Australian investors in Australian companies.

Treasury's proposed policy will have a significant impact on Australian companies and their ability to pay fully franked distributions to their shareholders and will delay and/or discourage the normal process of investment, economic growth and capital formation in Australia. The proposed legislation will promote debt over equity and discourage large, mature companies from paying tax in Australia (or encourage them to defer or minimise their tax as much as possible). This will lead to a significant increase in the budget deficit while creating cash flow problems for the Government each year with respect to corporate tax revenue collected. It will result in the unfair re-introduction of double taxation by stealth and negatively impact charities, low-income earners, self-managed super funds (SMSFs) and retirees – not the institutions/investment funds as communicated by the Government. It could force low-income earners, SMSFs and retirees to invest in riskier asset classes in order to maintain their income levels and returns, which could be detrimental to their long-term self-funded retirement and force them to rely on government funding instead.

If a company has generated a profit, paid tax on that profit and has franking credits to distribute to its shareholders as part of a franked distribution, it should be at the discretion of the company's board of directors to determine the franked distribution paid and the funding of the franked distribution based on commercial capital management considerations, not the considerations of the Treasury department.

It is not for the Australian Taxation office (ATO) or Treasury to comment on and determine what ordinary commercial and normal distribution policies of Australian companies are. Companies will only have profits through successful business operations, and they should not be penalised as a result of reinvesting those profits. The payment of tax by a company should be applauded for the greater good of the Australian community, not discouraged when the company decides it is in the best interests of the shareholders to pay out franked distributions to its shareholders and raise capital.

Without the inclusion of franked distributions as part of investment returns, the risk to Australian investors that are investing in Australian companies – particularly small growth companies – could become too great. This then places companies into a conundrum – take on debt funding to pay franked distributions or risk their ongoing ability to raise capital entirely.

In recent decades, we have experienced major macroeconomic shocks including the Global Financial Crisis (GFC) and the COVID-19 pandemic. The current franking system has served us well. It protected Australian companies and their shareholders by reducing the incentive for companies to fund their operations using debt instead of equity, which in turn promoted economic stability. The Australian franking system has encouraged Australian companies to invest in and pay corporate tax in Australia and has promoted a mindset of investing locally, safe in the knowledge that a dollar of corporate tax paid is not a dollar lost – Australian shareholders will receive the full value of that as a credit against their dividends received at some point in time. This, in turn, has created more jobs for Australians and provided a significant amount of additional income tax revenue that Treasury and Government are putting at risk with these proposed legislation changes.

Of particular concern with the proposed legislation is Schedule 5, which will stop companies paying fully franked distributions that, in Treasury's view, are directly or indirectly funded by a capital raising, undertaken at any point in time in the future or the past. The construct of the proposed legislation from Treasury is too broad and would interfere with the operation and efficiency of the Australian capital markets. The proposed legislation will significantly increase the cost of capital for all small-to-medium sized tax paying Australian growth companies and encourage large companies with excess franking credits to avoid or minimize the tax they pay in Australia.

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Schedule 4 of the proposed legislation will restrict a company's ability to equitably manage its capital and negatively disadvantage low-income earners by inhibiting companies from undertaking fully franked off-market buy-backs. Furthermore, if passed, those companies who legitimately use an off-market share buy-back as part of a restructure/re-capitalisation will lose part of their franking account balance or be forced to pay a franking deficit tax. Not only is the Government further limiting a company's ability to distribute franking credits to shareholders, but it is also 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. This should be removed from the legislation as outlined further below.

Treasury and the Government are underestimating the long-lasting and broad-reaching impact these proposed laws would have on Australia and we ask you to seriously re-consider making any changes to the franking system as currently contemplated.

Outlined below are the full details of our submission. We thank the Senate for referring this complex matter to an inquiry where the unintended consequences can be properly analysed to ensure changes do not hinder Australia into the future. We would welcome the opportunity to address the Senate Economics Committee at a hearing on this matter.

If you have any questions on our submission, please call me on [redacted] or email [redacted] or call Chief Financial Officer Jesse Hamilton on [redacted] or email [redacted]

Yours sincerely,

[redacted] [redacted]

Geoff Wilson AO
Chairman & Chief Investment Officer
Wilson Asset Management (International) Pty Limited

Jesse Hamilton
Chief Financial Officer
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Part 1 - Schedule 4: Off-market share buy-backs

The legislation regarding the off-market share buy-backs will restrict a company's ability to equitably manage its capital. It will also negatively disadvantage low-income earners by inhibiting companies from undertaking fully franked off-market buy-backs.

It is not traditionally large fund managers or 'institutions' who participate in off-market buy-backs. This has been a narrative pushed by the Treasurer and Assistant Treasurer which needs to be corrected. Rather, it is retirees and low-tax investors, including charities who are prepared to sell their shares at a lower-than-market-price in order to benefit from a fully franked distribution which, by passing this law, they will no longer receive. The only large institutional investors who participate in off-market share buy-backs are Australian superannuation funds. The beneficiaries of these superannuation fund strategies are the same people – mum and dad investors.

Hidden in the detail of this proposed legislation is the fact that companies, which in the future may use a legitimate off-market share buy-back as part of a restructure/re-capitalisation, will lose part of their franking account balance or be forced to pay a franking deficit tax if it has retained earnings or other reserves in its balance sheet. These companies will permanently lose the amount of franking that previously would have been distributed to shareholders, a complete overreach by Treasury and the Government. There are no other changes in ownership of a company that result in changes to a company's franking account balance. It is a draconian approach by Treasury.

To make this legislation more equitable for the capital management of businesses in the future, we suggest the removal of Schedule 4, Subsection 205-30(1) Section 9A and Section 9B from the proposed legislation. We believe that these changes to the proposed legislation, at a minimum, are essential to ensure the integrity of off-market share buy-backs as an efficient capital management initiative for corporate Australia.

Part 2 - Schedule 5: Franked distributions funded by capital raisings

Our main concern with the proposed legislation is Schedule 5 and the plan to stop companies paying fully franked distributions that, in Treasury's view, are directly or indirectly funded by capital raisings. The unintended consequences of the proposed changes far outweigh the revenue impact of an additional $10 million per year. This will be made evident through less investment in Australia and hence less employment, higher corporate leverage, a higher cost of capital, an increase in tax avoidance or minimisation and a risk to the sustainability of small and medium size Australian companies.

Part 2a – Unintended consequences for normal business operations

We recognise and appreciate the intent of the initial legislation, which is to prevent situations of intended tax avoidance and manipulation of the franking system.

However, we seek to highlight that the proposed legislation as drafted would appear to inadvertently catch many thousands of situations of legitimate company operations and could accordingly delay or significantly discourage the normal processes of capital raising, investment and economic growth within Australia. That is, the legislation as drafted does not sufficiently distinguish between acceptable activities and the mischief it properly seeks to address. This concern was highlighted in our submission to Treasury on 5 October 2022, and Treasury has failed to consider this feedback and re-draft the current proposed legislation to address our concerns and those of the approximately 2,000 others who provided submissions.

The Australian franking system already contains broad integrity measures to protect it from manipulation or inappropriate behaviour, as are contained in many other parts of the income tax law, to protect the integrity of the tax system and in particular the Australian franking system.

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Accordingly, we respectfully suggest that a company's cash flow management should not be the conceptual target of the proposed legislation. It is not Treasury's role, nor does it have the relevant experience, to opine on how an Australian company manages its working capital on behalf of its shareholders regarding the funding of franked distributions.

The concept of whether a company has generated profits out of which it may pay a franked distribution is a separate matter in which there is existing ATO guidance and tax determinations on. The ATO has historically published a Taxation Ruling (TR) regarding the payment of franked distributions and the requirement of a company to have profits to pay franked distributions to its shareholders (TR 2012/5 Income tax: section 254T of the Corporations Act 2001 and the assessment and franked of dividends paid from 28 June 2010).

We note that on 7 May 2015 the ATO issued a taxpayer alert on the issue of companies raising capital in order to pay out fully franked distributions, in what the ATO saw as the behaviour this legislation is now trying to address. The taxpayer alert came about following a number of underwritten (i.e. secured) capital raising initiatives and special fully franked distribution payments in the market at the time, namely relating to Harvey Norman, Vita Group and Tabcorp.

The taxpayer alert issued by the ATO was very specific in that it was targeted at companies with excess franking that raised capital at the same time and at the same amount of the special distribution that was paid (i.e. no change in a company's net assets) and where the franked distribution was abnormally large. This was in stark contrast to the current proposed legislation changes, which are extremely broad and will lead to significant unintended consequences for Australia. The specific instances the forementioned taxpayer alert was looking to address involved underwritten, or secured, capital raisings that meant there could be more intent shown on the raising of funds for the purpose of paying out an abnormally large franked special distribution. While this still goes against the general concept that if a company has paid tax on profits generated and reinvested those profits, the company should be able to pay a franked distribution. The tax payer alert was at least more targeted than the provisions of Schedule 5 of the proposed legislation from Treasury, which looks to target all capital raising activities and will capture thousands of legitimate company operations.

The enforcement and application of the proposed legislation by the ATO, whereby they will go back and deny the franking on past distributions made by companies, also presents another problematic scenario for Australian companies. That is, companies could be in a position whereby they ought to have legitimately paid a franked distribution to their shareholders in one period and as a result, have then paid a partially franked or unfranked distribution to their shareholders in subsequent periods due to the availability of franking credits at the time. If the ATO then makes a determination that the earlier franked distribution made by the company is no longer franked under the proposed legislation, the company has lost the ability to then attach the franking credits to the subsequent partially franked or unfranked distributions paid. The company could apply to the Tax Commission in this instance for the ATO to use its discretion in allowing the company to attach franking to the previous unfranked distributions, however it is unlikely the Tax Commissioner would use their discretion in this scenario to permit a company to change the franking rate and franking credits attached to past distributions, disadvantaging the company's shareholders. This should be something that is expressly added to the legislation and considered further on future drafting and amendments.

Part 2b – Impacts on small-to-medium size Australian companies

There are over 2.5 million small and medium sized companies in Australia. Currently, a combination of rising interest rates and cost inflation is driving an increase in demand for working capital for these companies, the lifeblood of Australia. As inflation remains high, a company with a high dividend pay-out ratio may have to reinvest most, or all, of their free cash flow to buy inventory and raw materials at inflated prices. These small and medium sized companies would typically fund their franked distribution payments by relying on their ability to raise additional capital through share purchase plans (SPP), dividend reinvestment plans (DRP),

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rights issues or placement of new shares. If the current proposal becomes law, these company's franked distributions would be deemed to be unfranked by Treasury as the dividend would be partly funded by the capital from the raisings.

Removing a company's ability to pay franked distributions to shareholders under these circumstances will result in a significant increase in the cost of capital for small and medium sized Australian companies. This, in turn, leads to reduced investment in Australia by Australian companies and shareholders, leading to further reductions in local employment and a fall in Government revenue from corporate tax paid.

Part 2c – Tax avoidance and encouraging companies to pay tax outside of Australia

There is approximately $36.6 billion[2] in tax paid each year that is not paid out as fully franked distributions to shareholders in the year the tax is paid; the vast majority accruing to large mature corporate entities. These excess franking credits effectively reduce a large company's incentive to pay tax in Australia if the proposed legislation is enacted. Collectively, Australian companies would only have to look to minimise this tax paid by approximately 0.14% in year one in order to make the proposed legislation regarding franked distributions and capital raisings' forward savings estimates uneconomical, $10 million per year, as announced by Treasury.

Appendix A[3] includes a list of large companies with current significant franking credit balances that can take on debt to pay fully franked distributions, and/or, minimise or defer their future tax payments in Australia as they already have surplus franking credits.

As we are aware, Australian company behaviours are influenced by the incentives and disincentives presented to them by capital markets and legislation changes. Boards of directors and company management will respond rationally to the incentives or disincentives put in front of them., If Australian companies have the ability to pay fully franked distributions to shareholders inhibited, it is reasonable to assume the current incentive to invest and pay tax in Australia, due to the benefit of franked distributions to their shareholders and cost of capital, will be removed. In fact, large mature Australian companies with excess franking balances will be incentivised to minimise or defer their tax payments in Australia as much as possible.

Corporate Australia has the means and the expertise to minimise or defer their tax payments if they are no longer incentivised to generate franking credits for their shareholders, which reduces their cost of capital. The proposed legislation from Treasury is leading them down a path that will significantly impact the Australian economy and present damaging structural problems for the Government budget and cash flow.

Part 2d – Banks and financial institutions

A fundamental change to this common practice in the Australian financial markets could have severe impacts to our most established and important companies, our authorised deposit-taking institutions and would be contrary to the Australian Prudential Regulation Authority's (APRA) guidance, which was provided in our most recent economic and financial market stress during the COVID-19 pandemic. The proposed draft legislation would put the structural integrity of the entire banking system and financial markets under duress.

In April 2020, APRA provided guidance on capital management to all authorised deposit-taking institutions, primarily impacting Australia's big four banks and major deposit-taking institutions. This guidance included an expectation that Boards would seriously consider deferring decisions on dividends given the uncertainty in the economic outlook at the time due to the COVID-19 pandemic and would offset any dividends to the

[2] Australian Tax Office: Taxation Statistics 2019-20.
[3] Sourced from Bloomberg, IRESS and FactSet.

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extent possible through other capital management initiatives, including DRPs and other capital raising initiatives to partially offset the diminution in capital from franked distributions to shareholders.

As the banking industry moved beyond the initial phase of response, APRA provided updated guidance on capital management to the industry. The guidance was aimed at assisting longer term capital management planning and to ensure the banks remained able to fulfil their role in supporting Australia's economic recovery. A key part of this guidance was the caution and advice it provided to the banks in relation to its dividends due to the ongoing uncertainty and heightened economic risk. The guidance from APRA was in relation to banks retaining at least half of their earnings and recommended they "actively use dividend reinvestment plans (DRPs) and/or other capital management initiatives"[4] to offset the reduction in their capital base and balance sheets from making franked distribution payments to their shareholders.

The application of the proposed legislation by Treasury will have far reaching impacts on the entire capital markets in Australia and will risk the stability of the Australian banking system by inhibiting effective capital management during challenging economic periods as we witnessed during the GFC and the coronavirus pandemic, contrary to the advice and guidance of APRA.

In times of crisis, the proposed legislation will create uncertainty and significantly increase the cost of raising capital for Australian banks. While Australian banks are heavily regulated, we have seen four instances of international financial institutions either closing or being 'bailed out' by government organised funding in March 2023 alone. Fundamental changes to the franking system, as outlined above, will put increased pressure on the Australian banking industry.

Part 2e – Matching of cash flows between capital raisings and distributions can frequently represent the normal and sensible processes of commercial capital management

It is a normal outcome in the running of either operating businesses or investment businesses to generate a profit and invest the resulting cash flows generated productively (by purchasing a further asset or applying the funds into the ongoing operations). Companies are expected to productively utilise their capital at all times and not merely hold cash until such time as it is distributed to shareholders. This is a well-established norm and expectation of all companies in Australia.

In some cases, the reinvestment of profits may even be outside the control of the company (for example, a dividend paid by an in-specie distribution of an asset in lieu of cash, or a demerger that includes a deemed dividend component). Once a company has generated a profit and reinvested these profits it can only create liquidity or cash flow to pay a subsequent dividend in one of a few ways:

(a) Debt funding – which for many may be neither viable, sensible nor desirable;
(b) Sell some of its investments or other assets – which incurs transaction costs or may simply not be viable if the investment is illiquid; or
(c) Raise capital.

The raising of capital (c):

- Accepts cash inflows from those investors (existing or new) wishing to increase their ongoing investment in the company;
- Implicitly applies the capital raised to the ongoing funding of the investments it has recently purchased (in substitution for the funding previously provided out of profits);
- Thus frees the cash from its previously earned profits and applies that cash to the payment of a dividend from those profits;
- While preventing the company from the unnecessary, costly and undesirable actions of taking on debt funding or having to sell the assets it just purchased.

[4] Australian Prudential Regulation Authority: Letter to authorised deposit-taking institutions - Capital management 2020.

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Under the proposed legislation, these actions would potentially fall foul of two of the key criteria, leaving the company unable to pay a franked distribution from its profits. This process has nothing whatsoever to do with tax avoidance and the manipulation of the franking system. It is merely a normal exercise in cash flow management. The company has legitimately earned profits that it should be entitled to distribute.

It appears Treasury is using these normal company operating procedures, combined with infrequent and specific instances of 'mischief', as an attack on Australian companies' ability to pay franked distributions and the franking system more generally.

A core element of the proposed legislation is to disallow the franking of distributions if a capital raising undertaken by the company has the principal effect or purpose of funding a dividend – and if they also fail the established practice test. As we note further below, many normal situations of company operations will also fail the established practice test. In the example given above, the raising of capital by a company is highly likely to be considered to have the purpose and effect of indirectly funding the distribution. Accordingly, the franking of the distribution would be disallowed under the proposed legislation where the dividend also failed the established practice test.

The example we have provided suggests that the raising of capital is not in itself a form of tax evasion. Instead it frees up funds from previously earned profits enabling a dividend to be paid to investors.. The proposed legislation appears to be incorrectly targeting a normal and acceptable action rather than targeting the very specific circumstances related to the tax evasion it seeks to prevent.

We would consider it best that the legislation be amended to capture the specific circumstances of tax evasion it targets (this would necessitate a material change to the current draft legislation).

The proposed legislation also makes a broad assumption that Treasury and the ATO will be reasonably able to determine that funds generated from a capital raising, whether before or after a franked distribution is paid, can be linked directly or indirectly to the payment of the franked distribution. As we all know, money is fungible. We question whether it is reasonable, or efficient from a resources and funding perspective, to have such a broad inclusion in the legislation and if the ATO will be able to make a fair assessment on a company's capital management system. It would appear that the simple costs of enforcement with respect to this matter would cost more than the intended revenue to be raised from the legislation.

Part 2f – Problems with the Established Practice Test

The legislation seeks to overcome the fact that the "effect" and "purpose" tests inadvertently catch many legitimate situations by exempting dividends that are part of the normal "established practice" of the company (so long as the established practice is not to fund dividends out of capital raisings).

A company that pays regular dividends and raises capital occasionally could hope that this constitutes "established practice" and they would be allowed to pay franked distributions. The integrity rule condition would therefore appear to disadvantage companies that for various non-tax related reasons, do not make regular distributions to its shareholders, such as privately held, or newly established small-to-medium sized companies. Even in the case of companies that pay regular interim and final franked distributions, the integrity rule applies to deemed dividends or special dividends which can arise due to specific circumstances unrelated to the circumstances Treasury are looking to target.

More broadly, it is difficult to reconcile the underlying rationale of the legislation which on one hand, allows a regular distribution to be franked where it is funded directly or indirectly by a capital raising (as long as it meets the ambiguous "established practice" test), while on the other denies the distribution of franking credits on a franked distribution which is paid in connection with genuine transaction events, or simply because it is the first time the company has made a profit and paid a franked distribution to its shareholders.

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The Government, nor Treasury, has offered any rationale for its flawed policy with respect to distinguishing between these scenarios.

We wish to highlight that there are many legitimate situations that will not satisfy the "established practice" requirement. A possible (but not exhaustive) list of situations would include:

(a) A company that both routinely reinvests its profits and raises capital. While this represents nothing more than common sense, reasonable cash flow management with no intent to manipulate the tax system, this would appear to fall foul of the "established practice" requirement in the Explanatory memo which suggests that a past practice of funding distributions from capital raisings isn't acceptable.
(b) A newly established company that has no "established practice";
(c) Companies paying special dividends due to abnormal profits;
(d) Companies changing their dividend pay-out policy or changing the timing of dividends;
(e) High growth companies that have high reinvestment needs that may only pay dividends irregularly;
(f) Companies operating in volatile industries where dividends are only paid irregularly;
(g) Companies with a small number of assets or investments where income is generated irregularly and only pay dividends irregularly;
(h) Companies receiving a large in specie distribution in lieu of cash where their resulting income is materially higher than normal (e.g. from a demerger); and
(i) Companies investing in businesses that go through large capital restructures and which generate irregular profits.

The list of legitimate situations that would not constitute "established practice" is large.
On this basis, we highlight that an "established practice" test does not act as a sufficient filter to distinguish between tax avoidance and the legitimate and normal operations of many businesses. The "established practice" test in its own right provides a significant competitive advantage to large mature Australian companies that have a long history of paying franked distributions and significantly undermines the growth of small-to-medium sized Australian companies that have not yet paid a franked distribution or have only ever paid them infrequently in their short history.

Once again, this suggests that the legislation should be materially redesigned to only capture the specific instances of tax evasion it targets. The "established practice" test should be abolished altogether as it gives an unfair competitive advantage to mature, well-established businesses and will place further pressure on small and medium sized growing companies.

Part 3 – Conclusion

As outlined, the unintended consequences of undermining the Australian franking system are far reaching. A simple amendment to Schedule 4 of the Treasury Laws Amendment (2023 Measures No.1) Bill will make the proposed change fairer for all Australian companies and Australian investors and still raise the $550 million forecast in the budget forward estimates.

However, the proposed changes contemplated in Schedule 5 of the proposed legislation risk significant unintended consequences for the Australian economy and capital markets, far in excess of the revenue impact of $10 million per year. The proposed changes will unfortunately restrict Australian companies' ability to legitimately pay franked distributions to their shareholders, from profits or company earnings, where the tax has already been paid and the franking credits generated on behalf of shareholders. Australian companies will not look to debt funding to pay franked distributions. Rather, mature Australian companies with excess franking credits will look to minimise their tax payments or defer them.

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The excess tax payments of approximately $36.6 billion[5] by Australian companies each year, not distributed to shareholders through franked distributions, could result in a reduction in tax payments by large, mature Australian companies with large franking balances which we estimate to be between $1 billion and $2 billion per annum. We believe the result of this measure will actually cost the Federal budget between $990 million and $1.99 billion each year.

Rather than limiting the legislation to a few instances of mischief that a tax "integrity measure" should target, the "established practice", "effect" and "purpose" tests would appear to inadvertently catch hundreds of thousands of normal and legitimate situations and put the lifeblood of Australia, small-to-medium sized businesses, at significant financial risk.

We are calling for the Senate to completely remove Schedule 5 from the Treasury Laws Amendment (2023 Measures No.1) Bill 2023 as the unintended consequences outlined above place Australian companies, Australian shareholder and the Australian economy at risk and redraft appropriate legislation to specifically target the instances of tax avoidance and mischief it intends to target.

[5] Australian Tax Office: Taxation Statistics 2019-20.

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Appendix A

Excess Fully Franked Dividends by Sector (largest three noted)

Metals	A$m
BHP	30,604
RIO	24,503
FMG	18,078
Total	**81,697**

Banks	A$m
WBC	7,695
CBA	3,815
NAB	1,552
Total	**17,373**

Energy	A$m
WDS	5,898
SOL	1,813
BPT	1,282
Total	**11,547**

Staples	A$m
WOW	2,289
EDV	1,909
WES	1,792
Total	**9,531**

Non-Bank Financials	A$m
MQG	1,066
SUN	873
MPL	870
Total	**7,283**

Discretionary	A$m
HVN	1,292
APE	1,235
JBH	1,052
Total	**6,995**

Media	A$m
REA	1,654
SXL	420
EVT	293
Total	**3,380**

Services	A$m
REH	1,752
SVW	597
MMS	260
Total	**2,979**

Health Care	A$m
RHC	1,988
HLS	454
ACL	163
Total	**2,888**

Gold	A$m
NCM	1,416
NST	315
RRL	218
Total	**2,455**

Infra & Utilities	A$m
TCL	1,862
AGL	154
APA	128
Total	**2,144**

REITs	A$m
CHC	598
DXS	263
ABP	240
Total	**1,480**

Transport	A$m
QUB	576
KLS	291
BXB	218
Total	**1,231**

Telecommunications	A$m
TPG	973
TLS	112
Total	**1,085**

Gaming	A$m
TAH	446
SGR	218
ALL	206
Total	**942**

Building Materials	A$m
BKW	374
ABC	284
CSR	101
Total	**849**

Info Tech	A$m
CDA	161
WTC	113
DTL	73
Total	**451**

Steel	A$m
GRR	296
DRR	120
SGM	3
Total	**419**

Materials	A$m
IPL	17
PGH	5
Total	**23**

Sector	Classification	Excess FF Dividends (A$m)
Metals	Resources	81,697
Banks	Industrials	17,373
Energy	Resources	11,547
Staples	Industrials	9,531
Non-Bank Financials	Industrials	7,283
Discretionary	Industrials	6,995
Media	Industrials	3,380
Services	Industrials	2,979
Health Care	Industrials	2,888
Gold	Resources	2,455
Infra & Utilities	Industrials	2,144
REITs	Industrials	1,480
Transport	Industrials	1,231
Telecommunications	Industrials	1,085
Gaming	Industrials	942
Building Materials	Industrials	849
Info Tech	Industrials	451
Steel	Resources	419
Materials	Resources	23
Total		**154,750**

Classification	Excess FF Dividends (A$m)
Resources	96,140
Industrials	58,609
Total	**154,750**