

By email: [OMSBBpublicconsultation@treasury.gov.au](mailto:OMSBBpublicconsultation@treasury.gov.au)

9 December 2022

Director  
Corporate Tax Policy Unit  
Corporate and International Tax Division  
Treasury  
Langton Crescent  
PARKES ACT 2600

Dear Sir/Ma'am,

## **EXPOSURE DRAFT LEGISLATION - CHANGES TO THE TREATMENT OF OFF MARKET SHARE BUYBACKS AND SELECTIVE SHARE CANCELLATIONS**

BDO refers to the invitation by Treasury to provide comments on the *Exposure Draft Treasury Laws Amendment (Off-Market Share Buy-Backs) Bill 2022 (Exposure Draft Legislation)*

BDO is pleased to provide comments on the Exposure Draft Legislation and our main concern is the effective date of the Exposure Draft Legislation, being 25 October 2022, provides insufficient notice to public listed companies in respect of the integrity measures applicable to selective share cancellations.

### **Effective Start Date of the Share Cancellation Measure**

We note that the Exposure Draft Legislation is to impact both off-market share buybacks and selective capital reductions undertaken by listed public companies that are first announced to the market after 7:30pm by legal time in the Australian Capital Territory on 25 October 2022, being the date of the revised Federal Budget for 2022/23. We are concerned that the Federal Budget announcement on the 25 October 2022 only referred to changes to off-market share buybacks rules and there was no mention in the Federal Budget Announcement of the additional integrity measures for listed companies using selective share cancellations.

Under the Exposure Draft Legislation the effective date for the selective buyback measure would be backdated to apply from 25 October 2022 (i.e. the date of the Federal Budget). However, as this additional integrity measure was not mentioned in the Federal Budget Announcement, BDO submits that, in these circumstances, it is inappropriate to back date the effective start of this measure. Therefore we also submit that the effective start date for this measure should be postponed until at least 17 November 2022, being the date that the Exposure Draft Legislation was released and was the first time there was any indication that the Government proposed to change the law for selective share cancellations.



Should you have any questions or wish to discuss any of the comments made in our submission, please do not hesitate to contact me on 02 9240 9736 or via e-mail to [lance.cunningham@bdo.com.au](mailto:lance.cunningham@bdo.com.au).

Yours sincerely

Lance Cunningham

BDO National Tax Technical Leader