



22 December 2006

Vernon Joice
Board of Taxation Secretariat
c/- The Treasury
Langton Crescent
CANBERRA ACT 2600

Dear Mr Joice

Review of the Taxation Treatment of Off-Market Share Buybacks

I am writing to you in relation to the Government's request to the Board to undertake a review of the taxation treatment of off-market share buybacks and to provide a final report to the Treasurer during the second half of 2007.

The Australian Financial Markets Association (AFMA) represents more than 130 participants in the wholesale banking and financial markets. Our member firms include the leading corporate finance advisers and the major listed financial institutions. AFMA's mission includes promoting the efficiency of financial markets and Australia as a significant centre for financial services. Thus, members have a keen interest in the review being conducted by the Board.

The review provides an opportunity to consider improvements to the specific provisions in the tax law relating to the mechanics of off-market share buybacks and it has the potential to achieve a greater level of certainty for companies, shareholders and the Australian tax authorities. We look forward to commenting on the proposed discussion paper, when it is issued. At this stage, we wish to signal our interest in the review and in participating in the associated consultation process.

We would also like to mention that when preparing the discussion paper, the Board may find it helpful to refer to the policy context within which the tax and regulatory treatment of share buybacks is placed. In particular, the Government has sought through the Corporate Law Economic Reform Program (CLERP) to promote efficient capital markets that provide higher returns to investors and support economic growth; for example, by enhancing the market for corporate control. This reform process is ongoing with further proposals to reduce the cost of fundraising contained in the Government's Corporate and Financial Services Proposals Paper issued last month.¹ Against this backdrop, it is important to retain an efficient share buybacks mechanism as a tool for companies to manage their capital structure.

There have been relevant reforms on the tax front too, which operate in parallel with the corporate law reform (for example, takeovers scrip-for-scrip relief and new demerger tax rules). The Government also introduced a new thin capitalisation tax regime in 2001, the effect of which is to require companies with international operations to hold a minimum level of capital for tax purposes. Since companies must now manage their capital base with an eye to their tax position, it seems only reasonable that the tax law operates in a manner that

¹ See Chapter 5 of the Paper, which contains proposals to streamline the regulatory process for rights issues, amongst other things.

Australian Financial Markets Association

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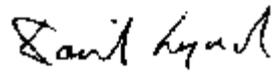
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enables companies to efficiently manage their capital base by issuing new capital or returning capital to shareholders, as necessary.

We look forward to the release of the discussion paper. I will serve as a contact point for the Association on this matter, so please contact me if we can be of any assistance to you.

Yours sincerely

A handwritten signature in black ink, appearing to read "David Lynch". The signature is written in a cursive, slightly slanted style.

David Lynch
Director of Policy