Australian Shareholders' Association

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Hon Michael Sukkar MP
Assistant Treasurer
Pre-Budget Submissions
Treasury
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Submitted: Online via PreBudgetSubmissions@treasury.gov.au

AUSTRALIAN SHAREHOLDERS' ASSOCIATION – PRE-BUDGET SUBMISSION 2024-25

Dear Mr Sukkar

The Australian Shareholders' Association (ASA) represents its members to promote and safeguard their interests in the Australian equity capital markets. The ASA is an independent not-for-profit organisation funded by and operating in the interests of its members, primarily individual and retail investors, self-managed superannuation fund (SMSF) trustees and investors generally seeking ASA's representation and support. ASA also represents those investors and shareholders who are not members, but follow the ASA through various means, as our relevance extends to the broader investor community.

Thank you for the opportunity to make a submission for consideration on the 2024-25 Federal Budget. We take the responsibility of representing over 7 million investors[1] extremely seriously and champion good governance which requires due consideration of matters impacting retail shareholders[2] as they require confidence in the market.

We welcome the large number of policy initiatives we have seen in the years since the Financial Services Royal Commission, a level not seen since the Commonwealth Law Economic Reform Program (CLERP) 9 was enacted in 2004.

Implement ALRC final report - Simplify financial service law

We note the timely public release of the Australian Law Reform Committee (ALRC)[3] report into the potential simplification of laws that regulate financial services in Australia.

The report highlights in Chapter 2 (para 2.53) the compliance costs, and notes that complexity increases compliance burden for smaller business entities, and we assert the same applies for retail investors. We agree simplification would help non-lawyers, such as directors, shareholders, and

[1] ASX Australian Investor Study 2023
[2] Shareholders who do not meet the definition for wholesale or professional and sophisticated investors.
[3] ALRC-FSL-Final-Report-141.pdf

investors, to better understand their legal position without professional assistance, as well as reducing the compliance costs of the industry which are passed on to financial services clients and shareholders.

We consider Recommendation 24 “Corporations and financial services legislation should be structured and framed so as to enhance navigability and comprehensibility, and to communicate the fundamental norms of behaviour underpinning the legislations position” to be critical to enhancing the experience and success of retail shareholders in navigating financial markets.

Recommendation 25 goes on to outline the principles that should guide decisions about when and how legislative power should be delegated, and Recommendation 26 recommends the publishing and maintain and of consolidated guidance on the delegation of legislative power consistent with Recommendation 25. We consider these two recommendations will assist with maintaining the aspirations of Recommendation 24.

We also support the call in Recommendation 54, that the Australian Government should establish a specifically resourced taskforce (or taskforces) dedicated to implementing reforms to financial services legislation.

Recommendation 58 The Australian Government should establish a publicly available data framework for monitoring the development of corporations and financial services legislation.

We call on the Government to implement the recommendations outlined in the ALRC’s final report.

Adequate time to consider legislative and regulatory change

The Australian economy is dominated by industries which commonly operate as oligopolies, with a concentration of employees, customers, and shareholders in the largest listed companies and therefore in the investments of individuals for wealth building and retirement savings and retirement income streams. While we represent shareholders we note the interests of employees, customers and other stakeholders impact the prospects for a company into the future. The concentrated interrelationships add complexity to policy making, with decisions impacting hundreds of thousands of individuals in their multiple roles. Mapping out the consequences is difficult!

We request legislative and regulatory consultations have a minimum exposure period of six weeks to allow considered responses and engagement. As with many contributors in the policy and regulation arena, we have a small team and high workload and while we are looking at more productive means of carrying out our role, longer consultation periods allow us to seek additional input on the range of views held by and experiences of retail shareholders.

We also suggest all legislation should be evaluated prior to enactment, as it was when Corporations and Markets Advisory Committee (CAMAC) was in existence. A review at the 18 months to 24 months after enactment may not reveal the impact or existence of any unintended consequences except those that would be foreseen at the consultation stage, as the time to investigate and litigate to delineate the law takes far longer than 18-24 months. For the corporations and financial services legislation, implementation of Recommendation 54 as outlined above and in the ALRC Report could replace a body with a broader remit.

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We wish to highlight our following FY24 policy priorities:

ASA FY24 policy priorities	
What it looks like	**Specific to the FY24-5 budget**
1. Balancing risk and opportunity in accessible exchange-traded investments	
An appropriately regulated market that protects investors while not limiting their access to appropriate investment options in line with risk tolerance and financial literacy.	Definition of sophisticated investor has implications for access to suitable investments to address availability of appropriate investments; Effective oversight of CHESS Replacement to allow development of better administrative options; and Rebuild trust in audit post PwC debacle by implementing recommendation of the PJC's Regulation of Auditing in Australia: final report as per our submission[4].
2. Improving governance of companies	
Promoting practices within company boardrooms that lead to better decision-making and more informed shareholders.	Phased implementation of the International Sustainability Standards; Improving shareholder engagement at the AGM – see our final paragraph; Better information for shareholders to determine votes on directors for shareholder election (better disclosure of the board skills matrix)
3. Sustainable retirement incomes and superannuation	
Well-considered, consistent policy frameworks that support investment for retirement.	Ad hoc changes reduce superannuation participants confidence in the ability to save and fund their retirement. We call for bipartisan support for sensible retirement incomes policy initiatives, and potentially a holistic review.

Under item 1, we include the definition of sophisticated investor and implications for access to suitable investments, both in terms of offering the protections to vulnerable and other retail shareholders and accessibility of appropriate investments. Legislation uses wealth, in terms of net assets or income levels, to categorise an investor as not requiring the protection available to retail shareholders. Prior to surges in city residential property prices, such wealth indicated an ability to make money, to hire advisors, diversify investments and to fund legal remedies when things went wrong. This heuristic is now out of date, and there are concerns that generational wealth transfer will result in some beneficiaries having a lower level of financial literacy than their parents. However, some more complex products are appropriate to form a portion of a retail shareholders' portfolio,

[4] ASA submission on Inquiry into the Ethics and Professional Accountability: Structural Challenges in the Audit, Assurance and Consultancy Industry

providing diversification benefits (better returns over the longer term) as well as greater returns. A simple financial cutoff will prevent that access and benefit the already wealthy. As the primary residences owned by mostly older generations is a major contributor to net wealth, we suggest it is excluded from the calculation. We also suggest introducing some sort of accreditation or a form of testing to make a sophisticated investor credential accessible to appropriate individuals, in association with overt, informed relinquishment of retail shareholder protections for highly financially sophisticated investors.

We also include market infrastructure under item 1. The ease of and trust in administration is important for retail shareholders. The delay to the CHESS replacement project has hindered the broad introduction of added features for the benefit of retail shareholders such as the broad rollout of electronic CHESS statements and introduction of the ability to allocate default contact, bank, or proxy details by individual holder identification number (HIN) will ensure shares remain connected to the shareholder.

We also include audit under item 1 and – importance of trust in audit to support confident and informed participation by investors and consumers in the financial system.

Under item 2, we see the phased introduction of ISSB standards as providing shareholders with information they need for making long-term investment decisions while streamlining the range of information will reduce the costs of the companies in providing this data.

Under item 3, the sustainability of super needs to be addressed as a longer-term bi-partisan priority. ASA supports the maintenance of a sustainable retirement incomes policy. Piecemeal changes to the system must stop. They erode individual's confidence in their ability to navigate the self-funding of their retirement and the completion of a broad-based review. As indicated in the Alliance for fairer retirement submission to Retirement Income Review, the capacity for individuals to voluntarily save for retirement, depends on stable policy settings, less complex policies, and ones that provide incentives. And in our submission to the Retirement Income Review lodged in February 2020, we emphasised the importance of a healthy share market to support the accumulation of funds, which also requires stable policy settings.

In relation to Better Targeted Superannuation Concessions, we repeat our concerns regarding taxing of unrealised gains rather than estimating the income on the amounts over $3m or another arbitrary cap. Calculating a deemed income using the total superannuation balance (TSB), makes more sense given the fluctuations we see in values of superannuation assets. Also, the lack of indexation of the $3m suggests the policy is not designed for long term, which is ironic given the nature of superannuation is all about the long term. We recommend implementing a periodic indexation at every three years. This is an area that would benefit from bipartisan policy – making it an election

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issue increases the uncertainty of ad hoc changes for those saving for their retirement or managing in retirement.

ASA company monitoring

ASA Company Monitors, volunteer members of the Association, attend more than 200 shareholder meetings of companies each year, engaging with the directors on behalf of retail shareholders and voting proxies in our name – holding them to account.

Our Company Monitoring Focus Issues for FY23/24 include:

Fair treatment of shareholders

We expect retail shareholders will be treated fairly and equitably in capital raisings. We expect companies to distribute shareholder communications in accordance with their preferences. We prefer companies to hold shareholder meetings using a hybrid format, allowing physical and online participation.

Building better oversight - directors and boards

Boards should comprise directors with the diverse skills as required to fulfill the company's strategic plan. The required skills and accredited skills attributed to each director should be communicated in a board skills matrix which supports the shareholders' decisions on voting for a director's election or re-election.

Each director's workload should allow the director to devote adequate time and attention to the role and company, allowing both the formal and informal requirements to be adequately met. We expect boards will oversee the company identifying, managing and communicating to shareholders on cyber- and data-risk, as well as developing an appropriate and resilient culture within the company.

Driving sustainable practices and improving ESG strategy

We expect companies to incorporate sustainability and ESG strategy, practice and reporting in an appropriate, effective way using a recognised standard such as Task Force on Climate-related Financial Disclosures or Global Reporting Initiative. We will review the monitored companies with an eye for efficient use of company resources and avoidance of greenwashing, and to assess the impact of remuneration plans on driving a culture of sustainability.

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Advocating for transparent remuneration

A company's remuneration report should be transparent and understandable for retail investors with a logical relationship between rewards and financial performance and corporate governance. ASA will refer to benchmarks to assess whether the amount and structure is reasonable compared to similar companies. ASA prefer hurdles that measure long-term performance over at least four years.

We consider that better shareholder engagement with companies is required – we advocate for hybrid annual general meetings (face-to-face and online), mailed communications to those with a standing request and streamlining electronic communication. We would like to see corporations ensure that they communicate to their shareholders in the way they need (not just online / digital), which is not always happening despite being required by law. This year we aim to hold roundtable discussion with all the parties involved in AGMs with view to devising a better way of engaging at the AGM. It's the only opportunity for shareholders to hold the board to account for their oversight of the business, its decisions and what is communicated to shareholders.

If you have any questions about these comments or other matters, please do not hesitate to contact me, ceo@asa.asn.au , or Fiona Balzer, Policy & Advocacy Manager, policy@asa.asn.au

Yours sincerely

Rachel Waterhouse
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Australian Shareholders' Association