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TREASURY LAWS AMENDMENT (MEASURES FOR CONSULTATION) BILL  
2022: INCOME TAX EXEMPTION AND FRANKING CREDIT REFUND FOR  
CERTAIN SUBSIDIARIES OF THE FUTURE FUND BOARD

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EXPOSURE DRAFT EXPLANATORY MATERIALS

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# ***Glossary***

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This Explanatory Memorandum uses the following abbreviations and acronyms.

<b><i>Abbreviation</i></b>	<b><i>Definition</i></b>
Future Fund Board	Future Fund Board of Guardians
ITAA 1997	<i>Income Tax Assessment Act 1997</i>



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# **Chapter 1: Income tax exemption and franking credit refund for certain subsidiaries of the Future Fund Board**

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## Outline of chapter

- 1.1 Schedule # to the Bill amends the ITAA 1997 to extend the income tax treatment that applies to the Future Fund Board to its 100% subsidiaries incorporated in Australia. That is, to exempt these subsidiaries from income tax and include them as entities eligible for a franking credit refund.

## Context of amendments

- 1.2 The Future Fund Board is a body corporate responsible for managing the assets of the Australian Government investment funds. The Board is exempt from income tax and eligible for a franking credit refund. However, this tax treatment does not currently extend to its subsidiaries. As a result, its 100% subsidiaries incorporated in Australia pay company tax which is ultimately refunded to the Board.
- 1.3 The current tax arrangements result in unnecessary compliance and administrative burdens for the Future Fund Board and its subsidiaries. Further, the time delay between paying tax and receiving the refund results in an opportunity cost, as the funds are temporarily unavailable for investment.

- 1.4 The amendments minimise the unnecessary compliance and administrative burdens from the current arrangements and enable the Future Fund Board to maximise available funds for investment.
- 1.5 The amendments do not change the net tax paid by the Future Fund Board and its subsidiaries or the tax received by the Commonwealth over time.

## Comparison of key features of new law and current law

**Table 1.1 Comparison of new law and current law**

<b>New law</b>	<b>Current law</b>
The Future Fund Board is exempt from income tax and is eligible for a franking credit refund. A 100% subsidiary of the Future Fund Board incorporated in Australia is also exempt from income tax and eligible for a franking credit refund, provided it meets certain special conditions prescribed in the law.	The Future Fund Board is exempt from income tax and is eligible for a franking credit refund. This does not extend to its subsidiaries.

## Detailed explanation of new law

- 1.6 The effect of Schedule # is that 100% subsidiaries of the Future Fund Board incorporated in Australia receive equivalent income tax treatment to the Board, provided they comply with the investment limitations that apply to the Board.
- 1.7 The amendments do not provide the Future Fund Board or its subsidiaries with a greater final tax benefit than they receive under current arrangements. Instead, the amendments minimise unnecessary compliance and administrative burdens.

### **Subsidiaries covered by these amendments**

- 1.8 For a subsidiary of the Future Fund Board to be eligible for the income tax exemption and franking credit refund, they must be a 100% subsidiary and be incorporated under Australian law. The subsidiary must also meet certain special conditions prescribed in the law.  
*[Schedule #, items 1 and 2, sections 50-25 and 207-115 of the ITAA 1997]*
- 1.9 The term *100% subsidiary* has the meaning given by section 975-505 of the ITAA 1997. A subsidiary of the Future Fund Board will be considered a 100% subsidiary if all of its shares are beneficially owned by the Future Fund Board and/or one or more other 100% subsidiary of the Board.

- 1.10 Subsidiaries incorporated outside of Australia are not eligible for the income tax exemption or franking credit refund.

### **Income tax exemption and franking credit refund**

- 1.11 Schedule # amends the ITAA 1997 to provide an income tax exemption to 100% subsidiaries of the Future Fund Board incorporated in Australia.  
*[Schedule #, item 1, section 50-25 of the ITAA 1997]*
- 1.12 Schedule # amends the ITAA 1997 to add these subsidiaries as exempt entities eligible for a franking credit refund.  
*[Schedule #, item 2, section 207-115 of the ITAA 1997]*
- 1.13 Under current arrangements, income tax paid by 100% subsidiaries of the Future Fund Board incorporated in Australia is refunded to the Board via the franking credits attached to the dividends paid to the Board by these subsidiaries. The amendments remove the need for this process as these subsidiaries will no longer pay income tax.
- 1.14 The amendments ensure subsidiaries continue to get the benefit of any franked distributions they receive from their investments by including them as entities eligible for a franking credit refund.

### **Investment limitations**

- 1.15 To be eligible for the income tax exemption and franking credit refund, the subsidiaries must comply with the same investment limitations that apply to the Future Fund Board. This condition is intended to prevent these subsidiaries from engaging in activities unavailable to the Board.  
*[Schedule #, item 1, sections 50-25 and 207-115 of the ITAA 1997]*
- 1.16 The Future Fund Board is subject to a number of investment limitations. An example of this is subsection 84C(1) of the *Future Fund Act 2006* that requires the Future Fund Board to take all reasonable steps to ensure that it does not hold a stake in a foreign listed company of more than 20 per cent. If a subsidiary did not comply with this requirement, it would not be able to access the income tax exemption or be eligible for a franking credit refund.
- 1.17 Investment limitations are also placed on the Future Fund Board by the investment mandates for each of the investment funds. Subsidiaries will need to comply with the investment mandate for the relevant fund they operate under. For example, the *Future Fund Investment Mandate Direction 2017* will apply to subsidiaries used for the purposes of the Future Fund.

## Commencement, application, and transitional provisions

- 1.18 The amendments commence on the first 1 January, 1 April, 1 July or 1 October to occur after Royal Assent.
- 1.19 The amendments apply to assessments for the first income year commencing on or after Royal Assent, and later income years.  
*[Schedule #, item 3]*