1 May 2009

Dr Ken Henry AC
Chair
Australia's Future Tax System Review Panel
AFTS Secretariat
The Treasury
Langton Crescent
PARKES ACT 2600

Email: **AFTSubmissions@treasury.gov.au**

Dear Dr Henry

Re: Australia's Future Tax System Consultation Paper

MLC & NAB Wealth welcomes the opportunity to respond to Australia's Future Tax System Consultation Paper and congratulates the Review Panel for undertaking the review. Our response addresses some of the main themes highlighted in the consultation paper, rather than responding directly to each question.

MLC & NAB Wealth

MLC & NAB Wealth is the wealth management division of the National Australia Bank ("NAB"). We provide investment, superannuation and insurance solutions and support the provision of quality financial advice which helps people achieve and protect their lifestyle and financial goals.

Through a vast network of financial advisers, MLC & NAB Wealth provides quality financial planning services to individual investors and corporate customers throughout Australia. We also provide corporate and institutional customers with out-sourced investment, superannuation and employee benefit solutions.

MLC has championed the move towards a fee for advice remuneration model. Two of MLC's advice businesses, Godfrey Pembroke and nab Financial Planning, have moved to a pure fee for advice model for new investments. Separating the cost of financial advice from the cost of a product is critical in managing potential conflicts of interest and building trust and transparency in the financial advice industry.

MLC & NAB Wealth manage more than $76 billion on behalf of individual investors and corporate customers in Australia (as at March 2009). These funds are managed by MLC & NAB Wealth via our 'manager of managers' investment approach. Our multi-manager options combine the expertise of up to 28 leading investment managers from around the world. This approach gives investors access to a combination of individually selected investment managers providing diversity across asset classes, within asset classes and across investment styles. The aim is to provide greater consistency of performance in variable market conditions compared to a single manager and significantly reduce risk without compromising the overall return. MLC & NAB Wealth is the third largest multi-manager in the world, with more than 8.4% of the world market share (Cerulli Associates - Cerulli Quantitative Update: Global Multimanager Products 2007).

MLC & NAB Wealth is the second largest provider of superannuation in Australia with 16.6% market share (source: Plan for Life Australian Retail & Wholesale Investments Market Share and Dynamics Reports as at June 2008) and holds the number one position for personal insurance annual inforce premiums with 14.7% market share (source: DEXX&R Life Analysis as at June 2008).

MLC & NAB Wealth's submission

We indicate our support for the submissions made by the Investment & Financial Services Association Ltd ("IFSA") on this consultation paper. Further, in our submission we:

1. support the rationalisation of financial services legacy products;

2. recommend the retention of the capital gains discount and support capital treatment for profits made by managed funds on the sale of investment assets;

3. recommend the removal of inefficient state taxes, in particular, stamp duty on life insurance products;

4. support the retention of the dividend imputation system; and

5. recommend that the taxation system should not act as an impediment for investors paying for financial planning advice on a fee for service basis.

We trust that our comments will be viewed favourably and we welcome the opportunity to be involved in further consultation.

Please do not hesitate to contact John Hardas on (02) 9466 7484 should you wish to discuss any matter raised in this submission.

Yours faithfully

Steve Tucker
Group Executive, MLC & NAB Wealth

Submission in response to Australia's future tax system consultation paper

1. Product rationalisation

MLC & NAB Wealth recommends that the taxation system should not impede financial product rationalisation.

Economically inefficient and out-of-date financial products (i.e. legacy products) arise through regulatory change, product innovation, technological advancements and industry consolidation. Such products are typically operated on outdated computer systems which make them difficult to support. Further, they require a greater deal of manual processing which makes them vulnerable to error and fraud. In turn, this increases costs for product providers and ultimately for customers. As the cost of maintaining legacy products are distributed among an ever-decreasing number of investors in those products, it places the pool of affected customers at further disadvantage.

Legal and tax impediments exist in rationalising these products. Accordingly, the industry previously made submissions to Government via IFSA seeking legislative reform to introduce a single legislative mechanism to facilitate rationalisation of these products. Briefly, the IFSA proposal enabled customers to be moved from legacy products, and permit them to roll-over their investment into other competitively more efficient products. Critical to the proposal is that a transfer of an investor account from one product to another through the rationalisation process should not trigger a tax liability for the investor or fund. To date, legislation has not eventuated from Government with respect to this initiative.

These issues act as a hindrance for the industry in substantially lowering fees for its customers. With anticipated further consolidation in the superannuation industry, the difficulties encountered by the industry and our customers with legacy products will magnify. Accordingly, we support a time limited period of relief for the industry to rationalise its legacy products.

2. Capital Gains Tax (CGT)

MLC & NAB Wealth supports the retention of the existing CGT discount. We do not support a tiered system based on years of ownership as called for by other parties. Such a system creates further complexity and makes it more difficult for wealth management businesses and ultimately our customers to comply with.

Importantly, MLC & NAB Wealth recommends that a statutory rule is needed which provides that the CGT rules be the primary code for all gains/losses on investments held by Managed Investment Trusts ('MIT'). This will ensure parity of treatment between direct investments and investments held indirectly via MITs.

We submit that, in the absence of the proposed statutory rule, there will be an immediate, permanent and adverse impact on the after tax investment returns of investors and the attractiveness of Australia as a financial services hub should the ATO enforce its contentious interpretation of case law precedents by effectively deeming the gains/losses made on the disposal of investment assets by MITs to be on revenue account.

Should the tax treatment of the investment assets held by MLC & NAB Wealth's 154 MITs change, this will make MITs uncompetitive and therefore effectively redundant in the market place.

Investors will seek to own assets directly via wrap platforms, separately managed accounts, self-managed superannuation funds and similar arrangements. MLC & NAB Wealth would therefore be required to incur considerable restructure costs in the vicinity of $20 - $25 million in order to provide customers with a competitive investment service. Consumers would be required to bear part of this cost.

3. Stamp duty on life insurance products

The Review Panel makes it clear that Australia is burdened with a complex tax framework, with many taxes raising relatively little revenue, but with high compliance costs. Stamp duty levied on life insurance products is one of these inefficient taxes. Broadly, stamp duty on life insurance products represents approximately 3-6% of all taxes paid by MLC & NAB Wealth on behalf of our customers.

In relative terms, a greater percentage of resources are utilised to monitor and support these duties. Having to deal with inconsistent legislation and multiple Revenue authorities adds to compliance costs. The different obligations under the various stamp duty legislation across the states and territories and the complexities in administering these obligations increases the probability of errors occurring.

Our view is that a relatively small percentage of Australians are adequately insured. Stamp duty on life insurance is viewed as a deterrence for people obtaining insurance cover.

Accordingly, we recommend that stamp duties on life insurance products should be abolished as they are inefficient taxes, add to the cost of insurance for consumers and contribute to the significant insurance gap in Australia.

4. The dividend imputation system

While certain bodies have called for the abolishment of dividend imputation, we do not support this view. We recommend that the dividend imputation system should be retained in its current form.

Removing the dividend imputation system would have a significant effect on Australian superannuation fund members. Currently, superannuation funds have an effective tax rate of 15% on investment earnings (excluding capital gains). The abolishment of the dividend imputation system will have an immediate effect on the relative tax position of franked dividends received by superannuation funds. Accordingly, superannuation funds will be encouraged to invest through offshore investments or interest earning investments rather than investing in Australian shares. Additionally, superannuation provides a significant source of capital for Australian companies to invest in productive capacity. Removal of dividend imputation is likely to cause an increase in the cost of capital for Australian business and result in a decrease in the value of listed shares.

In the event the dividend imputation system is abolished or significantly altered, we recommend that relief needs to be provided to superannuation funds in order for the effective tax rate of superannuation members to be maintained.

5. Financial advisor fees

The taxation system should encourage people to seek financial advice. However, it currently acts as an impediment as advice obtained for the preparation of an initial financial plan when paid for on a fee for advice basis is not tax deductible. This is at odds with remuneration arrangements based on commissions as such costs are generally tax deductible. This anomaly will become more apparent as the industry moves towards a fee for advice model.

MLC & NAB Wealth recommends that tax relief should be available to consumers for preparing an initial financial plan on a fee for advice basis. Specifically, we recommend such costs should be tax deductible upfront to the consumer.