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HOUSE STANDING COMMITTEE ON AGRICULTURE AND WATER REFORMS INQUIRY INTO SUPERANNUATION FUND INVESTMENT IN AGRICULTURE

To whom it may concern,

BDO welcomes the opportunity to provide feedback in response to the House Standing Committee on Agriculture and Water Reforms Inquiry into Superannuation Fund Investment in Agriculture.

This BDO submission recommends:

- Where FIRB approval is provided for an investment, foreign pension funds should be allowed to own (up to an agreed percentage e.g. 15%/20% of issued units) units in a Pooled Superannuation Trust (PST) whilst allowing the PST to maintain its tax concessional status - this would assist with improving liquidity of investment as Australian funds could sell their PST units to another superfund which is easier than a sale of an entire, albeit smaller, agribusiness
- Tax concessions be provided to increase the attractiveness of working in the agribusiness including exempting individuals who work in an agribusiness in a regional area from the luxury car tax, HECS relief for individuals who choose to work in agribusiness, tax rebates for working in remote areas in agribusiness and regional scholarships - this would increase in the talent pool available to agribusinesses and ultimately support increased profitability
- Tax concessions to smooth out the cash flow fluctuations or initial cash flow requirements for an agribusiness such as stamp duty relief to investment in agribusiness and income tax relief by providing an option to treat the acquisition and eventual sale of land and water on revenue account instead of on capital account - this would enable superannuation funds to have greater confidence in investing in the agriculture sector

These and other issues are expanded upon in the attached appendix.

Should you wish to discuss any of our comments, please feel free tc

Kind regards,

Gary Poon
BDO Tax Principal

Appendix

Terms of Reference #1
Any regulatory requirements are currently imposed on superannuation funds by the Australian Securities and Investments Commission, the Australian Prudential Regulation Authority and other relevant regulators which are acting as a barrier to superannuation fund investment in the sector?

BDO believe that the existing Pooled Superannuation Trust (PST) regime could be opened up to allow units to be held (up to a pre-determined limit) by exempt foreign pension funds. Presently all units in such vehicles must be held by Australian complying superannuation funds/the complying superannuation business of a life office etc.

Where FIRB approval is provided for an investment, foreign pension funds could be allowed to own (up to an agreed percentage e.g. 15%/20% of issued units) units in a PST whilst allowing the PST to maintain its tax concessional status. We would envisage the other units being available for purchase by Australian superannuation funds including Retail/Industry/Public Sector/SMSF. This will allow large agribusinesses to be jointly owned by Australian and foreign superannuation funds whilst keeping the underlying business intact and preserving the synergies (such as geographical spread and management expertise) of that business. The pension exemption should not be made available to foreign pension funds thereby ensuring income referable to those funds is taxed at 15%. Also the tax rate applicable to the exempt foreign pension funds would be in-line with the rate applying to the Australian superannuation funds, being 15%. That is, from an Australian perspective any tax advantage/detriment between foreign and local buyers is eliminated.

We note that on 17 May 2018 the Government released exposure draft legislation for public consultation on the tax treatment of stapled structures to give effect to policy announced on 27 March 2018 that included an announcement that in future investment in agricultural land will not be able to access the 15 per cent concessional MIT withholding tax rate. New, Government-approved nationally significant infrastructure assets may be eligible to access the 15 per cent concessional withholding tax rate for managed investment trusts for 15 years. This will ensure continued support for the development of nationally significant infrastructure assets that enhance the productive capacity of the economy and drive long term economic growth. We understand that draft legislation on the agricultural MIT changes and the conditions stapled entities must comply with to access the infrastructure concession and/or transitional arrangements will be released in due course.

By allowing a particular level of foreign investment (by foreign pension funds) without upsetting the concessions otherwise enjoyed by Australian superannuation funds and by allowing foreign pension funds a similar tax profile, effectively the foreign pension funds would be incentivised to invest with Australian investors. Australian funds may be more willing to invest in such long term agricultural investments where they are able to leverage the agribusiness investment experience of foreign pension funds and are not required to commit funds under management that is in excess of their current allowed allocation and thereby allow the long term economic benefits of these investments to remain with some Australian ownership.

BDO believe that these changes may assist with improving liquidity of investment as Australian funds could sell their PST units to another superfund which is easier than a sale of an entire, albeit smaller, agribusiness. Furthermore, easier access to large agribusinesses may also improve the return on investment for Australian superfunds investing in agribusiness as larger agribusinesses are typically more geographically diverse with strong management, which generally results in more consistent and stronger profits compared to smaller single geographically located farming operations.

Terms of Reference #3
Are there are any other practical barriers to superannuation fund investment in the sector?

Agribusinesses often find it difficult to attract talent to work in regional Australia and they often have to compete with the mining industry to provide competitive salaries making it more difficult to attract the right people prepared to relocate to work in agribusiness in regional and remote locations.

Some concessions that could be provided to increase the attractiveness of working in the agribusiness industry in a regional area are:

- Exempting individuals who work in an agribusiness in a regional area from the luxury car tax as the cost of travel is a major consideration for people living and working in remote locations and who often require a more substantial vehicle that can handle the rigours of long distance travel. The current luxury car tax threshold of $63,184 and $75,375 for fuel efficient cars should be removed for individuals that qualify for an exemption.
- Providing HECS relief for individuals who choose to work in agribusiness whilst they work in regional centres to attract younger and more mobile people to consider working in agribusiness.
- Providing individuals with a significant tax rebate for working in remote areas in agribusiness. The current remote area rebate is inadequate, outdated and only targets individuals who live in remote areas. A more targeted rebate should be introduced to encourage work in the industry.
- Providing agribusinesses with government incentives to employ people.
- Providing regional scholarships and other funding for students studying agriculture related courses.

Superannuation funds as an investor group do not normally have confidence in the agriculture sector.

Some concessions that could be provided to smooth out the cash flow fluctuations or initial cash flow requirements for an agribusiness are:

- Provide stamp duty relief to investment in agribusiness as it is a large upfront cost which has an immediate impact on superannuation fund performance in the first few years of the investment's return and reduces the liquidity of the asset class as compared to other investment classes where duty does not apply.
- Provide income tax relief by providing an option to treat the acquisition and eventual sale of land and water on revenue account instead of on capital account. This will help agribusinesses who invest a high level of capital upfront to obtain tax relief by deferring the timing of paying tax on profit until later years. This measure will also increase the amount of tax paid in future years but it will allow an investor to better match the tax payments on performance with the cash requirements of the business.
  Although no modelling has been carried out due to the limited timeframe to provide a submission, it may be found to have little impact on total tax payments over an extended period of time.

BDO believe that an increase in the talent pool available to agribusinesses will ultimately support increased profitability. Some of that talent pool may end up working in service industry roles as well as on the farm, and should ultimately increase the knowledge levels and competency of investment managers working with the superannuation funds and institutional funds, and that in turn will help them in assessing the quality of an investment opportunity into an agribusiness.

BDO believe that concessions to smooth out the cash flow fluctuations or initial cash flow requirements for an agribusiness will enable superannuation funds to have greater confidence in investing in the agriculture sector.