



INQUIRY INTO AGRIBUSINESS MANAGED INVESTMENT
SCHEMES

JUNE 2009

TABLE OF CONTENTS

| | |
|---|---|
| 1. Introduction..... | 4 |
| 2. Early Concerns | 4 |
| What is the impact of MIS on inputs, the environment and regional areas?..... | 5 |
| What is the effect of MIS on commodity markets? | 5 |
| How well do MIS perform? | 5 |
| 3. Transparency needed in promotion of Financial Products | 6 |
| 4. Conclusion | 7 |

THE VICTORIAN FARMERS FEDERATION

The Victorian Farmers Federation (VFF), Australia's largest state farmer organisation and the only recognised, consistent voice on issues affecting rural Victoria. The Victorian Farmer's Federation (VFF) welcomes the Department of Planning and Community Development's review into the current local law making system.

Despite farming on only three percent of Australia's available agricultural land, Victoria produces 30 per cent of the nation's agricultural product. The VFF represents the interests of our State's dairy, livestock, grains, horticulture, chicken meat, pigs and egg producers.

1. INTRODUCTION

The Victorian Farmers Federation (VFF) welcomes the Federal Government's inquiry into agribusiness managed investment schemes (MIS). The VFF would like to take this opportunity to discuss the obvious issues around sustainability and also transparency with the MIS as an investment product.

The Victorian Farmer's Federation has been a very vocal critic of the MIS structure in the past. The comments that follow will be consistent with numerous public representations and submissions made to the following reviews:

1. Review of the Taxation of Plantation Forestry, Federal Department of Treasury (July 2006)
2. Review conducted by the Hon Chris Bowen, the Assistant Treasurer and the Minister for Competition Policy and Consumer Affairs about the Non-Forestry Managed Investment Schemes (MIS) (Septemeber 2008).

This submission is to be seen as an addition to the VFF support of the submission provided by the National Farmers Federation.

2. EARLY CONCERNS

The VFF has been concerned that any tax advantage held by non-forestry MIS will create distorted competition between MIS and traditional farmers for resources as well as the sustainability of the structure itself. In the VFF submission provided to Hon. Chris Bowen, the Assistant Treasurer and the Minister for Competition Policy and Consumer Affairs about the Non-Forestry Managed Investment Schemes (MIS) in September 2008 made the following comment:

"The VFF is concerned that the lack of transparency surrounding MIS makes it difficult to determine whether MIS are commercially viable and structured towards long-term sustainability, or if they are set up to provide a tax break and the actual agricultural businesses is the secondary concern."

It is reasonable to conclude that VFF fears were legitimate given the collapse of Timbercorp and Great Southern. Given that the long-term sustainability of certain MIS can be characterized as questionable, the VFF had concerns about their impact on regional areas, commodity markets and MIS performance.

WHAT IS THE IMPACT OF MIS ON INPUTS, THE ENVIRONMENT AND REGIONAL AREAS?

The VFF have been concerned that not only is the MIS structure unsustainable in the long term, there is also little incentive to be responsible caretakers of the land. It also appears that the current MIS structures do not promote sound investment decisions in rural and regional areas, and as such have created a distortion of land values and commodity markets.

In the case of land values, the dollars generated by MIS have enabled these schemes to bid from a position of relative advantage in terms of their access to capital. In terms of commodity prices, MIS have seen investment continue into industries on unrealistic expectations of price, resulting in an over-supply of certain commodities and a distortion of basic market signals.

WHAT IS THE EFFECT OF MIS ON COMMODITY MARKETS?

One of the most significant impacts for the farming community that non-forestry MIS have on commodity markets is that of oversupply. Non-forestry MIS have the capacity to dramatically increase production of the commodities they manage. This capacity is evident in the volume of MIS-owned plantings. Timbercorp states that around 30,000 hectares are planted to horticulture under MIS, accounting for 6% of total Australian horticulture plantings, and that Timbercorp is responsible for over 18,000 hectares of this.¹ The potential for MIS to create market oversupply is also demonstrated in the share of industry value MIS's hold – in 2004-5 MIS held 50% of the industry value of almonds and 65% of the industry value of olives, for example.²

Any increase in supply when it is driven by tax purposes rather than market fundamentals, has the potential to lead to oversupply impacting on the returns of not only MIS investors but other operators who have established business without the same tax advantages. This would be financially devastating for farmers, but as investors in MIS are likely to have these types of investments as a part of a port folio and have other incomes streams as their main source of funds they are not impacted to the same degree as traditional farm investors.

HOW WELL DO MIS PERFORM?

¹ Timbercorp, Australian Horticulture and Managed Investment Schemes Fact Sheet, http://www.timbercorp.com.au/userdocs/1/company_information/documents/Fact%20Sheet%20MIS%20and%20Horticulture.pdf

² Timbercorp, Australian Horticulture and Managed Investment Schemes Fact Sheet, http://www.timbercorp.com.au/userdocs/1/company_information/documents/Fact%20Sheet%20MIS%20and%20Horticulture.pdf

The VFF is concerned that the lack of transparency surrounding MIS made it difficult for potential investors to accurately determine whether MIS are commercially viable and structured towards long-term sustainability, or if they are set up to provide a tax break and the actual agricultural businesses is the secondary concern. Tax returns and other relevant information regarding MIS are often not publicly available.

The agricultural community has previously argued that the Australian Tax Office has failed to adequately assess whether the fees and structure of MIS are reasonable and reflect industry standards without distorting them. *The Weekly Times* gave considerable coverage to this issue in its series on MIS, noting that a particular concern for agribusiness is that investors in these schemes can receive full tax deductions on costs that are well above the normal industry costs, and that these fees can then be used as capital to outbid farmers for resources such as land and water.³

The original purpose of MIS was to enhance regional wealth creation by increasing plantation resources. As almost 50 per cent of MIS now accounted for by non-forestry projects, it is time to question whether this indirect form of support continues to effectively deliver targeted assistance to an area of perceived market failure.⁴

3. TRANSPARENCY NEEDED IN PROMOTION OF FINANCIAL PRODUCTS

There have been two areas where the VFF have been extremely concerned about with regards to transparency of MIS as a financial product. The NFF submission to this inquiry has provided the following explanation which summarizes these concerns very well.

The NFF has significant concerns about the adequacy and independence of information available to potential investors in agricultural MIS and the potential for undue influence of the ATO product ruling processes.

The Rural Industries Research and Development Corporation (RIRDC) suggests that the overall MIS sector continues to perform poorly with respect to realistic or actual rates of return versus projected rates.⁵ It is therefore the NFF view that an appropriate level of market accountability by promoters and managers of MIS projects has been lacking.

³ *The Weekly Times*, '\$1.2b War Chest to buy Land. Water,' Paul Sellars, March 29 2006, page 4.

⁴ NFF submission

⁵ RIRDC 2005 Economic effects of income-tax law on investments in Australian agriculture - With particular reference to new and emerging industries

While the NFF recognises that some MIS already provide detail on the long-term financial performance of the schemes, the NFF does not believe the current system can be assured of delivering accurate and independent information which is commercially evaluated by industry experts.

The NFF is also concerned that the high commissions offered to financial planners by MIS promoters (a reported by the Australian Financial Review to range from between 10% and 13%), has the potential to provide undue incentive for planners to invest client dollars in such schemes. In addition, the NFF is concerned that by the time the MIS pays the fees to tax lawyers, tax accountants, fund managers and scheme promoters, then only a small percentage (<35%) of the total MIS investment dollars are actually being used in the venture.

4. CONCLUSION

While the VFF supports investment into the agriculture industry, we feel the tax structure that was initially in place for MIS served as a crutch for the MIS companies. The investment that was attracted to the schemes and the subsequent business structure was obviously unsustainable. Continued investment into the agriculture sector is extremely important, but it needs to be supported through sustainable means.