



5 August 2009

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Update for Investors in Timbercorp and Great Southern MIS Projects

We provide this update as a service to our clients. It will cover frequently asked questions and give further insights and reassurance to each of our clients.

Part A covers Timbercorp and Part B covers Great Southern.

Clients who are investors in Great Southern projects are encouraged to read our report concerning Timbercorp as well because many of the issues are expected to play out in a similar way for them.

A. Timbercorp

1998 and 1999 Eucalypt Projects: Time is running out

- On Monday 3 August 2009 the Federal Court refused to grant the liquidator's requested extension of time to 30 September 2009. The Court allowed only until 1 September 2009 for the liquidator to decide whether to walk away from forestry leases which are in arrears of rental
- Whether or not the liquidator is likely to be able to achieve asset sales for the benefit of Timbercorp's creditors and Timber project investors will become a little clearer this Friday 7 August 2009 when a meeting for investors will be held at 10.00am in the Victory Room at Etihad Stadium, Level 1, Gate 9, Docklands, Melbourne. All affected investors are encouraged to attend in person or through a representative
- Meanwhile, to preserve investors' rights in relation to the 1998 and 1999 Eucalypt projects we believe investors ought immediately pay Timbercorp Securities Limited (in liquidation) the amount of outstanding management costs and rent. Failure to immediately pay may jeopardise investors' entitlement to receive their share of harvest proceeds from those projects

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- When making the payments to **Timbercorp Securities Limited (In Liquidation)** we suggest you do so with a covering letter which states that:
 - (a) you require the payment to be held on trust for you, to be refunded if the managed investment scheme is to be wound up or to be dealt with in any way other than having a replacement Responsible Entity appointed
 - (b) you authorise the rental component of your payment to be paid to the landlord, but only if and when the liquidator decides not to disclaim the relevant head lease
 - A template of the form of letter we suggest you use is attached to this Update.
 - The effect of the letter is that you should be refunded your payment if the liquidator walks away from the forestry leases.

Almonds and Olives Projects: Future still being determined

- For the Almond projects meeting held last Friday the investors' votes resoundingly favoured the opportunity to allow the projects to continue. If that comes to pass it would be through a recapitalisation of the projects or a replacement Responsible Entity taking over from Timbercorp Securities Limited. The projects would not be wound up unless all else fails
- Further information will become available over the next 2 months. Formal steps need to be taken meanwhile to make the necessary amendments to each project's constitution (except perhaps for the 2002 Almond project where the required resolution was not passed)
- The Olives projects will be dealt with in a separate meeting to be held on 17 August 2009. Investors in those projects are urged to also respond appropriately to the opportunity and get in touch with their financial planner as soon as they receive the notice of meeting from KordaMentha
- Meanwhile, we remind all investors to keep checking the dedicated website www.timbercorpgrowergroup.com.au for up-to-date information for all projects.

Mango and Avocado Projects: Timbercorp Out, Huntley Group In

- All investors' rights against Timbercorp Finance Pty Ltd and Timbercorp Securities Limited are still able to be asserted. M+K is still dedicated to seeking appropriate remedies on behalf of investors in the mango and Avocado projects (and all other projects). This includes challenging the validity of loans granted by Timbercorp Finance Pty Ltd.

Claims of investors who did not borrow from Timbercorp Finance Pty Ltd

- It remains the case that M+K will keep pressing Timbercorp Securities Limited and its directors to pay compensation to those investors who paid money for projects in 2007 and 2008. This applies both for new projects entered and for earlier established horticultural projects where ongoing operational expenses and management fees were invoiced in October 2007 and October 2008

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- Our expectation is that Timbercorp Securities Limited as the Responsible Entity and its directors would have held professional indemnity insurance cover against claims of the type we are making on behalf of our clients. The Australian Financial Services Licence held by the company contained a condition which required "adequate" professional indemnity insurance cover to be held "having regard to the nature of the activities carried out" by Timbercorp Securities Limited as the Responsible Entity
 - M+K expects to be able to formally commence a representative Court proceeding (or class action) next month.

"Final Demands" now calling for Timbercorp loans to be paid out in full

- Anyone who receives from Mills Oakley Lawyers a "Final Demand" should immediately forward a copy to our office
- For borrowers from Timbercorp Finance Pty Ltd, we expect next month to formally file a Court proceeding which would run as a representative action (or class action). We would seek orders from the Court declaring project loans unenforceable if they were loans freshly made in 2007 or 2008. The case is that investors would not have entered into those fresh financial commitments if they had been informed by Timbercorp that it was on the verge of collapse. Our case is that Timbercorp was legally obliged to provide such critical financial information to investors. Timbercorp failed to discharge its duties in that regard

Class action against Timbercorp Finance Pty Ltd and Timbercorp Securities Limited: the ball is about to roll

- On 24 July 2009 in the Victorian Supreme Court M+K announced on behalf of all of its clients that investors would be resisting all attempts by Timbercorp Finance to recover money under what we believe are the unenforceable loans
- The Court accepted our argument that there will be common issues needing to be resolved, making it highly desirable that the cases progress as one. The Court accepted it would not be an efficient use of resources to have multiple actions throughout the country. Besides, the cost for investors (and indeed the liquidator) to conduct separate individual proceedings would be horrendously expensive compared with dealing with common issues in a single representative proceeding
- Through the whole of this month we will be advancing our clients' interests by preparing material that will aid in the efficient case management of the proposed class action
- We take great encouragement from the Judge's words expressed during the preliminary hearing on 24 July 2009:

"I think you will find that any proposal to resolve once and for all the issues that you have identified will be seriously considered by the Court and by Timbercorp Finance, because these matters have to be resolved. The quicker and the simpler, the better". (His Honour Justice Judd)

- As mentioned earlier, besides dealing with Timbercorp Finance Pty Ltd the proposed class action will also deal with claims investors have against

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Timbercorp Securities Limited (both for non-borrowed amounts and in respect of ultimate responsibility for the challenged borrowed amounts)

- The Court has scheduled the procedural hearing to resume on 27 August 2009 so that appropriate case management issues can be further explored on that date.

For investors who are not yet clients of M+K

- If you would like further information on how to be counted in with the group which will be pressing claims in relation to Timbercorp please call Katrina Slifka on (03) 9794 2620 or email katrina.slifka@mk.com.au

B. Great Southern

Great Southern Growers Group website: a "must see" place to visit

- For any investor who has not yet visited, we urge you to visit the Great Southern Growers Group's website and embrace "*The Save My Trees Initiative*". The website address is www.savemytrees.com.au
- Save My Trees is focused on a mission to ensure the majority of scheme investors (growers) affected by the collapse of the Great Southern Group end up in the best financial position attainable through coordinated advocacy and action. Out of this focus, it is a specific objective to advance the interests of all related groups impacted by the collapse of Great Southern

Bendigo and Adelaide Bank

- Yesterday, 4 August 2009, an announcement was made to the ASX concerning extra provision being made by the Bank for loans the Bank may not be able to recover in connection with Great Southern MIS projects
- Mike Hirst, the Bank's Managing Director, acknowledged that for borrowers who elected to stop making loan repayments "*it will really come down to what people see their legal position to be*"
- M+K agrees with that point. The borrowers who are clients of M+K strongly maintain that the affected loans are unenforceable on the ground Great Southern failed to disclose to its investors that Great Southern was on the verge of collapse. Had the investors who invested in 2007 and 2008 been told that the company was on an irreversible downward spiral they would surely not have invested in Great Southern projects. Nor would they have been willingly placed into any loans with Bendigo and Adelaide Bank via personnel employed with Great Southern Finance Pty Ltd
- It could even end up being the case that the affected loans could date back as far as 2005 depending on what evidence is found in the relevant documentation held inside Great Southern. M+K will seek access to all relevant documentation in due course through the Court so that a full and proper assessment can be made
- If, as has happened with Timbercorp, investors/borrowers receive "Final Demands" for payout of loans the same situation as applied for Timbercorp will

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apply in the Great Southern case. That is, a demand is only as good as the underlying loan agreement on which it is based. The demand will be worthless (and unenforceable) if the underlying loan agreement is found to be invalid or unenforceable

- Our lengthy letters to Bendigo and Adelaide Bank and to Ferrier Hodgson as Administrators of the relevant Great Southern companies set out extensive grounds as to why we believe the underlying subject loans are invalid or unenforceable.

Borrowers who receive demands from Javelin Asset Management Pty Ltd

- Some borrowers will have received a demand for payment from Javelin Asset Management Pty Ltd, on the basis that the company claims to have taken an assignment of the loan from the person's previous financier. The demands for payment are relatively aggressive
- The demands assert that the company is entitled to be paid money but they assume the validity of the loans in the first place. Of course, M+K and its clients strongly challenge that assumption. We say the original loans are invalid and they cannot be "transformed" into valid loans just because somebody else has taken over the loans
- As part of the fixed fee offer to write letters on behalf of Great Southern investors, we will include letters to Javelin Asset Management Pty Ltd on behalf of any investor who receives a demand for payment from that company.

The future for Great Southern MIS Projects

- Our understanding is that viability assessments are still being carried out by the Receivers and Managers McGrathNicol. We anticipate that within the next week or two investors should be in receipt of some communications concerning the assessments made by the Receivers and Managers
- We will obviously give further consideration to the matter once we have seen the report issued by McGrathNicol.

For investors who are not yet clients of M+K

- If you would like more information on how to join the group of Great Southern clients being represented by M+K, you should call Tonya McDougal of (03) 9794 2690 or email tonya.mcdougal@mk.com.au

Yours faithfully



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