

Brian Silvia  
BRI Ferrier

23 June 2011

By email: [brian.silvia@briferriernsw.com.au](mailto:brian.silvia@briferriernsw.com.au)

Dear Brian

**Forest Enterprises Australia Group  
Managed Investment Schemes 1999 to 2008 (FEA Schemes)  
FEA Limited (subject to deed of company arrangement)(receivers and managers appointed)  
(FEA)  
FEA Plantations Limited (subject to deed of company arrangement)(receivers appointed)  
(FEAP)  
Proposed adjourned Grower meetings on 4 April 2011**

We refer to the above meetings which were called for 28 February 2011, were adjourned to 21 March 2011, to 4 April 2011, to 29 April 2011 and which are now scheduled for 29 June 2011.

As you are aware, we previously raised with you a number of issues concerning the proposed meetings and the Black Tree restructure proposal to which they relate. We attach for your ease of reference a copy of our correspondence to you of 1 April 2011 together with the enclosures (being the letter from Maddocks to FEAGG dated 1 April 2011 and the detailed Commentary document).

On 1 April 2011 we also raised our concerns with the proposed Black Tree restructure by a letter to Mr Rob Garton-Smith (of Primary RE Ltd) and Mr Tony Jack (of Black Tree Pty Ltd). A copy of that letter is also attached. Given their failure to address or even acknowledge the numerous shortcomings and fatal flaws in those parties' restructure proposal, we have written to them again. A copy of the letter is enclosed for your attention. While you should review the full detail of those issues, for your assistance we have summarised the issues below. We suggest that copies of all of the above correspondence should be posted on the BRI website in order that growers are properly informed about the consequences of their votes and are in a position to make an informed decision.

**Withdrawal of grower calculator**

Black Tree have, on 16 June 2011, withdrawn its grower calculator from its website and stated that growers should not rely on it to calculate any potential return.

It is reasonable to assume that many growers did indeed rely upon that calculator when lodging their proxies (and voting intentions) and, in any event, it cannot be shown that they did not.

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee, and its network of member firms, each of which is a legally separate and independent entity. Please see [www.deloitte.com/au/about](http://www.deloitte.com/au/about) for a detailed description of the legal structure of Deloitte Touche Tohmatsu Limited and its member firms.

Liability limited by a scheme approved under Professional Standards Legislation.

Member of Deloitte Touche Tohmatsu Limited

Member of  
Deloitte Touche Tohmatsu

Accordingly, apart from the multitude of substantial issues we have raised and which are yet to be addressed, it is clear that the scheduled grower meetings cannot proceed where growers have lodged proxies and voting intentions in circumstances where they may have relied on that calculator. Even if FEAGG or Black Tree afford growers an opportunity to change their voting intentions, this would be a clearly inadequate means of addressing this issue as the parties can have no confidence growers will revisit the issue (or that it will be brought to their attention), particularly where, by reference to FEAGG's latest grower Update, FEAGG has identified grower apathy as an issue to be overcome in this process.

## Summary of issues

As you are aware, the shortcomings and flaws concerning the scheduled meetings which we had previously raised broadly relate to the following issues:

- the fundamentals of the process by which the meetings were called;
- the process by which it is proposed that the FEA Schemes will be restructured, including serious shortcomings in the proposed scheme documents;
- the workability and legal effectiveness of that restructuring process, including a failure to acknowledge the priority of the secured creditors' security and the impediments to proposed actions which are central to the proposed restructure; and
- compliance with financial services laws concerning disclosure and appropriate licensing of persons conducting a financial services business.

However since those matters were raised with Primary RE and Black Tree, most recently in April 2011, officers of both Primary RE and Black Tree have given evidence on oath in the matter of *Primary RE Limited v Great Southern Property Holdings Limited (Receivers and Managers Appointed) (In Liquidation)* [2011] VSC 242 which serve to highlight both existing and additional further substantial issues with the proposed restructure.

You will see from the attached letter that:

- Consistent with their practice in the case of other distressed managed investment schemes, neither Primary RE nor Black Tree have undertaken any proper due diligence of the FEA Schemes to assess whether or not those schemes are, in fact, viable;
- It is the practice of these parties to only conduct these investigations after the schemes are 'restructured';
- This fact has not been communicated to growers, whose responsibility it is to meet all costs associated with the proposed restructure, from calling the meetings, giving effect to the restructure and, as is now clear, the costs of Primary RE and Black Tree undertaking due diligence;

- Despite not having conducted any proper due diligence, Black Tree continued until 16 June 2011 to make available to growers Black Tree's 'Grower Calculator' which purports to provide growers with their projected returns from the restructured FEA Schemes: it cannot be shown that many Growers who have already registered their votes with Link Market Services have not relied upon that calculator when deciding how to cast their vote.

We understand from the Federal Court proceedings No. 315 of 2011 which you issued in FEAP's name that the deed administrators share some of our concerns in relation to the proposed Black Tree restructure. Since you issued those proceedings on 21 April 2011 we have seen no evidence that any of the issues raised in our correspondence or the proceeding you issued have been addressed by Black Tree. The adjournment to 29 June 2011 has not resulted in any of these issues being resolved.

In those circumstances, and given the matters referred to in the attached correspondence, the proposed restructure must be withdrawn.

If for whatever reason, that might not occur, we consider that, as deed administrator of the RE, you are bound to bring the Growers' attention to the range of outstanding and material issues we have raised so that Growers are given the opportunity to be more fully informed concerning the implications of the proposed Black Tree restructure.

Yours sincerely



Tim Norman  
Receiver and Manager of FEA and Receiver of FEAP