Wed 24/05/2017 5:27 PM

SS   Stephen Sheridan <ssheridan@vff.org.au>

RE: Feedback - TGD No4 Operating Standards for Pool Providers - Version 2

To   Mary Raynes

Cc   Darren Arney (darren@grainproducerssa.com.au)

ⓘ You replied to this message on 24/05/2017 5:28 PM.

Mary,

Some initial feedback as requested re the proposed TGD No.4 Operating Standards for Pool Providers.

Overarching Comments re TGDNo.4

- There is clearly a need to provide protection to growers as both consumers of these products and ultimately as unsecured creditors.
- As previously advised the Code-of-Practice as it stands is non-binding and does not provide any real discipline on Pool managers to adhere to the code, nor assurance or recourse for growers, and as a result does not improve market confidence.
- That the TGDNo.4 become a self-managed prescribed industry code, managed by GTA similar to the proposed TGD, but resolving the issues that the current TGD is non-binding and unenforceable as it would be prescribed under the ACCC.
- That the TGD/a prescribed code be more closely drafted along the lines of the criteria that apply to the Financial Services Licenses and Responsible Entities rather than 're-invent the wheel'.
- It was suggested by one of the members to do a template table of criteria that a Pool Manager would have to publish/report against?

Comments Specific to TGDNo.4 draft

- As above the document should be a Code of Practice in itself
- It should be aligned with criteria that apply to the Financial Services Licenses and Responsible Entities, to future proof the industry
- Similarly it should be drafted by someone with some expertise in managing responsible entities. For example there are some things not covered in the draft, such as anti-hawking provisions?
- Some comments re specific clauses of the draft TGD:
  - 1.1(d)   This is meant to be a CoP/Standard for Pool Providers – this clause reads as though it is trying to abdicate responsibility and purpose of the Code to a 'buyer beware' scenario? Alternately this section should outline the obligations on the Pool Provider, as it is titled, so the Pool Provider ensures it has:
    - *the appropriate skills,*
    - *payment systems,*
    - *risk systems and procedures,*
    - *governance and compliance protocols,*
    - *policies and resources*

    Etc, which are currently not stated in Clause3?
  - 2.1   'Track' is not defined? IF it is to be used as the basis of quoting it must be clearly defined and reported at time of quoting
  - 2.4   Pool definition needs work - Not technically correct – it is the combination of grain assets (not buying of) across all contributors (farmers or others), and returning the sales proceeds of (not profits/losses? Maybe of hedges?) to all the contributing members for each asset class of grain. e.g. for each grain grade?

- 2.8   Ring-fencing - it is either a requirement to ring-fence or if not then it must be clearly stipulated that the pools assets are not ring-fenced? Not just buried in the PDS (or PPDG) but when quoting.
- 2.11   Underwriting - Not just "non-recourse" for payments already made, but that the provider has guaranteed future payment to the degree of proposed underwriting for past & future payments.
- Either section 3 and/or section 4 – It should be a Pool Provider obligation that a provider Must publish when quoting estimates whether an estimate is guaranteed or not; has any level of underwriting or not, etc. Further, this must be a positive requirement to publish along with prices, regardless of the pricing basis used, not simply buried in the Pool Product Disclosure Guide.
- Section 4 – covers off EPR's – what about other pricing basis or if an EPR is not published?
- References to "website" – should read 'public website'
- 5(b) – 'adequate records' seems very subjective & not give guidance to either pool provider or auditor alike? Similarly the phrase 'to the extent practically possible'.
- 6 PPDG - This TGD should provide a minimum summary of criteria that the PPDG should disclose. E.g. Price basis; Whether it is a GMP or not; Whether underwritten or not; etc

Thanks & regards,

Steve