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Mr Stephen Palethorpe
PO Box 6100
Parliament House Canberra
ACT 2600

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Subject **Select Committee on Lending to Primary Production Customers
Rabobank Australia Limited Submission**

Dear Mr Palethorpe

Rabobank Australia Limited welcomes the opportunity to provide comment to the Select Committee on Lending to Primary Production.

Please find enclosed the Bank's comments in relation to the Terms of Reference. The Bank remains open to meet with the Committee to expand upon this submission.

If you require further information, please contact Ben Taylor, General Manager Corporate Affairs

Yours sincerely

Peter Knoblanche
Chief Executive Officer
Rabobank Australia Limited

Select Committee on Lending to Primary Production Customers

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Preamble

Rabobank Australia Limited (**Rabobank** or **the Bank**) welcomes the opportunity to provide comment to the Select Committee on Lending to Primary Production Customers (**the Committee**).

Rabobank is a member of the Australian Bankers Association (**ABA**) and supports the ABA's submission to the Committee.

This submission by Rabobank seeks to provide commentary and guidance to the Committee, particularly in areas where Rabobank has industry expertise and knowledge.

Rabobank is a part of the international Rabobank Group headed by the cooperative Coöperatieve Rabobank U.A. (**CRUA**), a leading specialist in food and agribusiness banking. CRUA has nearly 120 years' experience in providing customised banking and finance solutions to businesses involved in all aspects of food and agribusiness. CRUA is structured as a cooperative and operates in 40 countries, servicing the needs of approximately 8.6 million clients worldwide through its own Branch presence and/or locally incorporated subsidiaries (such as Rabobank in Australia) and a network of more than 1000 offices and branches internationally.

In Australia, Rabobank is one of the leading agricultural lenders and a significant provider of business and corporate banking and financial services to the region's food and agribusiness sector. Rabobank has 61 branches (or loan production offices) throughout Australia. Of these 61 locations, 56 are in regional and rural areas contributing to the Australian economy as a regional employer and as an active promoter of food, agribusiness and regional affairs. As an authorised deposits-taking institution, Rabobank reinvests 100% of all deposits raised back into the food and agriculture sector through loans.

With a sole focus on food and agribusiness, Rabobank takes a leadership role in providing knowledge and networks, in addition to finance. The Bank:

- conducts and provides industry-leading research across commodities through its local and global food and agribusiness research team,
- provides education through farm business management programs,
- stages forums for primary producers, food and agribusiness companies and the wider agricultural sector; and
- conducts leadership awards programs for established and emerging food and agribusiness leaders.

Rabobank also has Client Councils in each region of Australia, bringing together clients on a regular basis to discuss issues affecting their sector and commodities, broader topics including nutrition and food security and, most importantly, providing the opportunity for clients to comment on the Bank's strategy and initiatives.

Rabobank has a solid history of putting clients at the centre of everything it does, evidenced through industry-leading customer satisfaction survey scores and strong customer retention. Additionally, the Bank has regularly returned industry-leading employee engagement scores – evidence of the commitment and dedication employees have to the sector and servicing their clients. Rabobank's Rural Managers have an intimate knowledge of food and agribusiness, with 71% owning or having grown up on a farm.

The Bank takes a long-term approach with its clients and assists them in building sustainable and successful businesses through the provision of finance, access to knowledge, and access to networks.

In situations where a client experiences financial difficulties over an extended period, the Bank works patiently and supportively to allow the client every reasonable opportunity to resolve the difficulties. The effectiveness of Rabobank's approach has been demonstrated by the fact that the overwhelming majority of the Bank's farming customers throughout Australia continue to operate strong and successful businesses.

Rabobank appreciates the opportunity to provide further information to the Committee in its capacity as a leading food and agribusiness lender.

A: “the lending, and foreclosure and default practices, including constructive and non-monetary default processes”

D: “the appropriateness of loan contract terms particular to the primary production industries, including loan-to-value ratios and provision of reasonable written notice”

The Bank has addressed points A and D of the Terms of Reference collectively below as they are closely related.

Overview

Rabobank recognises that each primary production enterprise has its own unique characteristics and, as a result, each enterprise is analysed and assessed on a case-by-case basis. For acceptable lending proposals, the loan structure is tailored to the specific needs of the producer in order for them to build a sustainable long-term business.

Loan products for primary producers

The loan products offered by Rabobank are designed with the specific needs of primary producers in mind. For example:

- interest payments can be timed to suit the cash flow needs of the specific industry in which Rabobank’s clients operate. For instance, interest payments can be made six monthly in arrears for grain and grazing industries, quarterly for piggeries and monthly for dairies; and
- flexibility of “interest only” payments for approved customers which provides the primary producer with the ability to make lump sum principal repayments in good seasons and requires only the interest to be met during poor seasons or times of low commodity prices.

Lending policies and loan contract terms

Rabobank’s lending policies and loan contract terms are also designed to meet the needs of specific primary industries and locations. Different types of agribusinesses will require different loan characteristics which take into account a vast array of factors such as the seasonality of the business, regularity of cash flow, availability and reliability of water supply and location of the security property. These internal policies guide the Bank in terms of the appropriateness of the amount of the loan and the contractual conditions that should be agreed with the customer in that particular industry or circumstance. Some examples of these specific lending policies and contract terms are set out below.

(i) Loan to value ratios used for lending against land used for primary production

Lending guidelines for lending against land are based upon the land’s productive capacity, loan serviceability and remoteness. For example, higher levels of lending based on higher loan to value ratios are adopted in higher rainfall / more reliable areas such as dairy properties in Gippsland in Victoria, whilst lower levels of lending based on lower loan to value ratios are adopted in lower rainfall areas such as the grazing country subject to Western Lands Leases in western New South Wales.

In circumstances where farm production is based on leased land, loan periods are typically aligned to the remaining lease term.

(ii) Lending to specific types of primary producers

Rabobank has specific lending policies tailored to specific agricultural industries and loan amounts (which are based on loan to value ratios) differ on that basis.

Specific credit guidelines are applied to intensive industries such as broiler farms which enable increased lending based on a higher loan to value ratio and higher gearing, particularly for corporate growers. However, this higher level of lending is only possible if the Borrower can demonstrate, among other things, adequate debt service coverage, evidence that the grower is meeting their animal welfare obligations and accreditation obligations, and is also dependent upon the typically reliable monthly income streams of these operations to support a monthly permanent debt reduction program which will see security and gearing ratios reduce over time.

Specialist industries such as rock lobster farming have specific credit guidelines that permit lending against rock lobster units and pots as well as land and pots.

For dairy farms, in certain instances shares in dairy companies may be recognised as forming part of the security for a loan as those shares relate to the volume of milk production that the relevant dairy company will purchase from the producer.

For grazing operations, conservative guidelines are applied to how livestock are valued when taken as security. As part of the Bank's policy, security value is only applied for a stable core breeding herd.

Water is valued as either a 'bundled' or 'unbundled' asset and can be taken as security. In the case of irrigation properties, assessments are undertaken on water reliability and productive capacity. A specific methodology is applied to valuing water where it is taken as security to reflect the varying levels of liquidity and saleability of this asset class in different catchment areas.

(iii) Seasonal facilities

Seasonal facilities are available for specific crops such as the Bank's 'Seasonal Cotton Loan' which is designed to fund the cotton crop growing expenses throughout the growing season secured against the value of the cotton crop itself. Once the cotton sale proceeds are received, the proceeds are used to repay the seasonal loan and the surplus funds are paid to the customer.

(iv) Bespoke special conditions for certain loans

The loan term offered to a customer will take into account (amongst other things) factors such as the customer's underlying offtake contracts/ production licences or the estimated productive capacity of major assets.

Special conditions are also able to be tailored to specific scenarios, such as a situation where the initial debt level is outside of the Bank's preferred lending guidelines but loan serviceability is demonstrably strong. In such a case, principal reductions from cash flow would be built into the loan contract terms with the effect that the customer's equity position should increase as the principal reductions reduce the debt to a more sustainable long-term position for the customer.

Constructive and Non-Monetary Default

Loan contracts with primary producers contain terms which specify events of default of a non-monetary nature to cover scenarios such as when a customer places their business in voluntary administration or the nature of the underlying security has changed - for example, when the security land is used for a different purpose to that agreed with the Bank. In any event, the Bank would very rarely commence enforcement action following a non-monetary default event on its own. Almost always, the events of default giving rise to enforcement action by Rabobank are of a monetary nature (almost invariably) or a combination of both monetary and non-monetary defaults (very much the exception).

The provision of “reasonable written notice” and the importance of farm debt mediation

In a number of jurisdictions in Australia, the Bank is required to invite a customer and/or security provider to participate in farm debt mediation following the occurrence of an event of default before any enforcement action can be commenced. The farm debt mediation process requires the provision of reasonable written notice to a customer and establishes a timeline for the parties to work together to review the customer's and/or security provider's situation and assess options for the loan facility going forward.

In those states where farm debt mediation is not required by any statutes, Rabobank endeavours to adopt a similar approach to that mandated under the various farm debt mediation schemes and invites customers and/or security providers and their advisers to meet and discuss the way forward.

The farm debt mediation process is a highly effective tool for the management of loans to primary producers that are in difficulty and Rabobank confirms that it supports the establishment of a uniform national farm debt mediation scheme.

B: “the roles of other service providers to, and agents of, financial institutions, including valuers and insolvency practitioners, and the impact of these services”

The Role of Property Valuers

There are a number of reasons why the Bank would use the services of property valuers during the life of a loan. This could be at the outset when a new loan is being considered for a large new-to-Bank client or for an existing client purchasing a rural property. A property valuer would also typically be used for the valuation of rural properties categorised by the Bank as “specialised rural properties” with limited alternate use. This could include piggeries, poultry sheds, orchards and the like. Property valuers are also used for “check” valuations of internal appraisals as part of Rabobank's quality assurance framework and also as sources of information in relation to market developments or particular sales.

In circumstances when Rabobank is a mortgagee in possession intending to exercise its power of sale, the Bank would also normally obtain a property valuation. It obtains this valuation in order to provide an independent benchmark of what the current value of the security property is likely to be and assist it to determine whether an offer to purchase the property reflects fair market value. Similarly, receivers and managers appointed by the Bank are bound by the [Select Committee on Lending to Primary Production Customers - Rabobank Australia Limited Submission | Page 7 of 9](#)

obligations set out in s420A of the *Corporations Act 2001* and will invariably engage the services of a property valuer in order to ensure that they obtain fair market value for a property when exercising a power of sale.

Property valuers used by Rabobank are instructed by the Bank's internal appraisers and only property valuers that are on the Bank's Panel of Acceptable Valuers (membership of which is determined by a prescribed screening process) can be used. Importantly, in line with APRA Prudential Standard APS 220 Attachment B on *Impairment, Provisioning and the General Reserve for Credit Losses*, Rabobank requires property valuers to adopt the valuation standards and practice of the Australian Property Institute when preparing their reports. The independence and specialised skill of property valuers (particularly in relation to rural and agribusiness assets) is pivotal to the integrity of the valuations used by the Bank when attributing value to security properties during the life of a loan and/or during a sale process.

The Role of Insolvency Practitioners

The appointment of receivers and managers to a customer's assets (either through receivership or as the agent for the Bank as mortgagee in possession) is considered a last resort by Rabobank and invariably follows a lengthy period where all other options, such as workout or voluntary sale of assets, have been unsuccessfully explored by the parties. Rabobank has a Special Asset Management (SAM) area which manages a customer's loan facility once it has deteriorated (noting that this would rarely occur due to non-monetary default alone). The primary role of the SAM team is to work with customers to try to manage their loans out of a default situation and put their loan facilities back on a sustainable footing. Where this is not possible, then the SAM team will manage the Bank's relationship with receivers and managers that are appointed in respect of the facility.

As at March 2017, of Rabobank's customers:

- only 2% are under management by Rabobank's SAM area; and
- only 0.16% are subject to the appointment of receivers and managers (noting there are currently no files at all where Rabobank is acting as a mortgagee in possession).

Receivers and managers appointed by the Bank in respect of loans to primary producers are required to have specialist knowledge of primary industries – for instance, receivers appointed in respect of a piggery or poultry farm will need to have the requisite skills to manage and realise those specialised assets. Familiarity with specific regions and local conditions can also be very important in relation to receiverships involving loans to primary producers.

It is in the best interests of both the Bank and the customer that suitably skilled and qualified insolvency practitioners are used in order to ensure that receivership costs are kept to a minimum and the best price for assets being sold is achieved. Quite often, receivership appointments are made in circumstances where Rabobank is already facing a loss or shortfall situation itself in relation to the loan and it is very much in the Bank's interests to closely monitor the receiver's costs incurred in the conduct of the receivership and ensure the best price is achieved for the assets. Even in situations where Rabobank is not facing a loss or shortfall situation itself, the fact is that receivers are bound by common law and statutory duties to exercise their powers in good faith and to act with care and diligence in performing their duties, which typically include managing their costs and expenditure in conducting the receivership. The specific obligation set out in s420A of the *Corporations Act 2001* also ensures that receivers are required to sell assets for fair market value.

C: “the appropriateness of internal complaints handling and dispute management procedures within financial institutions”

In line with industry standards, Rabobank has internal dispute resolution processes and complaints handling procedures in place in each of the business lines which are consistent with Rabobank’s Complaints Management Policy. The Bank’s complaints handling procedures and processes are transparent and easily accessible for customers. Information on how customers can raise a complaint and the avenues open to complainants, if they are dissatisfied with the resolution of their complaint, is available to view on the Bank’s website and in the Rabobank Complaints brochures available in its branches.

<https://www.rabobank.com.au/-/media/rabobank-au/files/pdf/rabobankau-complaints-process.pdf?la=en>

To improve internal complaints handling, Rabobank has recently introduced the role of *Customer Advocate*. The Customer Advocate will, on request by a complainant, independently review complaints where the complainant is dissatisfied with the resolution of their complaint or how their complaint is being handled. This initiative is consistent with the practice of the other major banks in Australia and offers the complainant another option aside from referring their complaint to the Financial Ombudsman Service (FOS).

In line with ASIC Regulatory Guide 165 – *Licensing: Internal and external dispute resolution*, the National Consumer Code (NCC) and the Australian Bankers’ Association Code of Banking Practice (ACOBP), the Bank also has specific timeframes in place for dealing with complaints. The prompt and efficient consideration of complaints is in the interests of both the Bank and the customer. The Bank’s Compliance department is mandated with the responsibility for the recording and management of complaints and disputes which ensures that the complaints resolution process is undertaken in a timely fashion. This also means that the nature and frequency of complaints can be analysed and understood by the Bank.