

# Timbercorp Group In Liquidation



## Frequently Asked Questions – Olive Schemes

Last Updated – 08 July 2009

### Purpose of Frequently Asked Questions

The purpose of the Frequently Asked Questions is to provide some general answers to common questions received. They cannot and are not intended to provide detailed answers or advice to you. The Liquidators must act in the best interests of all creditors. Accordingly, we are unable to provide advice to you on your specific circumstances. If you have any queries in relation to your rights and obligations, we recommend that you seek independent advice.

This is not a legal document.

### Index of Questions

Questions	Date Added / Amended
<b>General Information (<a href="#">click here to go to section</a>)</b>	
What is Timbercorp's role in relation to the Managed Investment Schemes?	08/05/2009
Should I continue to make payments relating to my project and/or loan?	09/06/2009
Are Grower Investors creditors, and if so are they secured or unsecured creditors?	08/05/2009
Are there any other interested parties looking at taking on the Responsible Entity ("RE") role?	22/05/2009
Who are the Grower Investor representatives on the Committee of Inspection for TSL?	06/07/2009
What will happen to Grower Investors that have borrowed through Timbercorp Finance to fund their investments in the projects if projects are terminated?	08/05/2009
<b>Information relating to the Court proceedings concerning olive and almond schemes (<a href="#">click here to go to section</a>)</b>	
Why are the Administrators (now Liquidators) going to court?	06/07/2009
Which projects does this apply to?	09/06/2009
When will the court consider the matter?	25/06/2009
What is the current status of the olive schemes?	08/07/2009
If Grower Investors were invoiced for the 2010 crop management and harvest costs, would there be enough money?	09/06/2009
Why would it be just and equitable to wind up the olive and almond managed investment schemes?	09/06/2009
Will Grower Investors still receive information about their projects' viability? If so, when?	09/06/2009
Will Grower Investors have a say in Court?	25/06/2009
If the schemes are wound up, what will Grower Investors receive?	09/06/2009

Questions	Date Added / Amended
Can a new responsible entity be appointed?	25/06/2009
What is the status of Viability Assessments for other horticultural projects?	09/06/2009

## General Information

### What is Timbercorp's role in relation to the managed investment schemes?

One of Timbercorp's subsidiaries, Timbercorp Securities Limited (In Liquidation) ("TSL"), is the responsible entity or trustee of registered managed investment schemes and in that role has responsibility for the operation and administration of the schemes. Each scheme is governed by its own constitution or trust deed, and if a registered scheme, is also governed by Chapter 5C of the Corporations Act 2001 (Cth) ("the Act"). On 23 April 2009, the board of directors of TSL appointed Mark Korda and Leanne Chesser of KordaMentha as Voluntary Administrators of TSL. On 29 June 2009 Mark Korda and Leanne Chesser were appointed as Liquidators of TSL by a resolution of creditors. The Liquidators now control the functions and operations of TSL.

TSL will continue to be the responsible entity for its registered managed investment schemes until it is replaced in accordance with the *Corporations Act*. For further information in relation to replacing TSL as responsible entity please refer to the document titled "Discussion Paper – Issues for A Prospective RE" which is available for download from the KordaMentha and Timbercorp websites.

### Should I continue to make payments relating to my project and/or my loan?

Grower Investors are required to continue to make payment on their loans. Grower Investors are also required to make payments to their project costs where an invoice has been issued.

Should any Grower Investors have any queries in relation to their rights and obligations, we recommend that they seek independent advice.

### Are Grower Investors creditors, and if so are they secured or unsecured creditors?

Based on our initial investigations, depending on the scheme(s) with which they are associated, Grower Investors may be or may become unsecured creditors of TSL. Grower Investors may, for example, be creditors of TSL if TSL has failed to perform obligations it was required to perform in favour of Grower Investors (or fails to do so in the future), either in its capacity as responsible entity of the relevant scheme or in its own capacity as manager of the scheme.

While no secured creditor holds security over all of the assets of TSL, some secured creditors hold security over specific assets of TSL.

### Are there any other interested parties looking at taking on the Responsible Entity ("RE") role?

At the moment TSL does not have any funds and has significant operational cash flow requirements. In many or most instances it appears that the schemes themselves do not have the funds to meet these operational cash outflows without additional contributions by Grower Investors or other parties, but the Liquidators' investigations continue in this regard.

The Liquidators will consider proposals from replacement responsible entities, however, it should be noted that each scheme comprises a complex combination of contractual relationships which need to be resolved in connection with any such proposal.

## Who are the Grower Investor representatives on the Committee of Inspection for TSL?

We have the consent of the following TSL committee members to publish their contact details:

Name	Email address
George Kalil	<a href="mailto:gk@axisfinancial.com.au">gk@axisfinancial.com.au</a>
Neil White	<a href="mailto:NeilW@afpn.net.au">NeilW@afpn.net.au</a>
Neil Cox	<a href="mailto:neil.cox@financialfoundations.com.au">neil.cox@financialfoundations.com.au</a>
Kerree Bezençon	<a href="mailto:kerree@siger.com.au">kerree@siger.com.au</a>
Tony Bergin	<a href="mailto:growersinterests@gmail.com">growersinterests@gmail.com</a>
Colin Vickers	<a href="mailto:cpvchelsea@bigpond.com.au">cpvchelsea@bigpond.com.au</a>
Harold Maksoudian	<a href="mailto:harold@summitconsultants.com.au">harold@summitconsultants.com.au</a>
Chris Garnaut	<a href="mailto:olennie@garnaut.com.au">olennie@garnaut.com.au</a>
Richard Auricht	<a href="mailto:richardauricht@rrcut.com.au">richardauricht@rrcut.com.au</a>

## What will happen to Grower Investors that have borrowed through Timbercorp Finance to fund their investments in the projects if the projects are terminated?

Timbercorp Finance Pty Ltd (In Liquidation) (“Timbercorp Finance”) is a separate entity from TSL. Those Grower Investors that undertook loans from Timbercorp Finance will be required to meet their obligations under the applicable loan documentation. If any Grower Investor has any queries in relation to their rights or obligations, we recommend that they seek independent advice.

## Information relating to the Court proceedings concerning the olive and almond projects

### Why are the Administrators (now Liquidators) going to court?

As the responsible entity of Timbercorp’s managed investment schemes, TSL has no cash and is insolvent. TSL has insufficient funds to continue operations associated with the almond and olive projects. The majority of head leases on land expire on 30 June 2009 and there is currently no money to pay rent beyond this period. A rental moratorium from lessors of 90 days has been sought, though most lessors have not agreed to this arrangement.

In addition to this, the olive and almond schemes are unable to meet their obligations, as and when they fall due and are considered to be insolvent. Previously TSL would contribute funding to meet this shortfall. However, TSL no longer has any money for this purpose.

The Administrators (now Liquidators) applied to the Supreme Court of Victoria to seek a direction as to whether the Liquidators of TSL should apply to the Court to wind up each of the olive and almond managed investment schemes on the basis that it is just and equitable to do so. The court advised that the Liquidators were justified in applying to the court to wind up certain management investment schemes.

There are a large number of competing interests associated with each of the schemes and between Grower Investors. The Court provides a forum for all of those parties to be heard and for the Judge to make a final determination in relation to the future of each of the schemes. All documents relevant to the court proceedings are available for download from the KordaMentha, Timbercorp and Arnold Bloch Leibler websites.

### **What projects does this apply to?**

The process described above applies to all olive and almond managed investment schemes, except private offer schemes. The present application does not concern the other horticultural schemes, which involve avocados, table grapes and citrus, the Private offer Schemes or the 11 active forestry schemes.

### **When will the court consider the matter?**

The Court has scheduled the hearing for 15 July 2009 at 10:30am.

### **What is the status of the olive schemes?**

Approximately \$62 million is required for operations, rental and other expenditure for the 2010 crop management and harvest. TSL does not have the available funds and TSL is not permitted to borrow any funds. Historically, Timbercorp invoiced Grower Investors for estimated operating expenditure by the end of September each year, requiring Grower Investors to pay the invoice by the end of October. Timbercorp paid for the operating expenditure for the months of July, August, September and October.

### **If growers were invoiced for the 2010 crop management and harvest costs, would there be enough money?**

If TSL invoiced growers for the operating expenditure for the 2010 crop management and harvest, the Liquidators expect that it will not be paid in full by all Grower Investors in the olive and almond schemes.

First, a small percentage of the interests in the olive schemes are owned by the Timbercorp Group of Companies and those companies are insolvent and cannot pay charges levied on them.

Secondly, Timbercorp Finance is insolvent and cannot make any further advances to Grower Investors who require financial assistance, as they have previously done.

Thirdly, a percentage of Grower Investors will default in making payment. Since the appointment of Liquidators on 23 April 2009, the default rate has increased.

### **Why would it be just and equitable to wind up the olive and almond management investment schemes?**

As responsible entity of the schemes, TSL has a duty to act in the best interests of the Grower Investors.

The Liquidators consider the almond and olive schemes to be insolvent and are unable to meet their obligations, as and when they fall due. Combined, the olive and almond schemes require in excess of \$300 million for operations (rent and other operational expenditure) for the 2010 harvest. The Liquidators believe the projects will be cash flow negative for this harvest period.

Having regard to the current financial position of TSL and the cash requirements to complete the 2010 olive and almond crops, the Liquidators do not believe it is in the best interest of Grower Investors to raise invoices to Grower Investors to pay the estimated operational and capital expenditure. A number of Grower Investors have expressed their intention not to make further payments to their project.

If the schemes are wound up, then the Liquidators could not require Grower Investors to pay costs associated with the 2010 harvest.

### **Will Grower Investors still receive information about their projects' viability? If so, when?**

Yes. Information has been provided to the court relating to the viability of the projects that is:

- Charts which sets out the net sales for each scheme, the gross proceeds, the total operating expenditure, the net operating cash flow and the new operating cash flow over time.

This information is available to growers on the Timbercorp and KordaMentha websites.

### **Will Grower Investors have a say in court?**

Yes. Please refer to the Minute of Order (17 June 2009) on the 'Court Proceedings' sections of the KordaMentha and Timbercorp website for details.

### **If the schemes are wound up, what will Grower Investors receive?**

On the winding up of the schemes, the Grower Investors may not receive any significant returns.

### **Can a new responsible entity be appointed?**

The Corporations Act contemplates a process whereby the responsible entity of a managed investment scheme can be replaced. The TSL Liquidators will consider all bona fide alternative proposals to replace TSL as responsible entity for any one or more of the schemes. We will also make all necessary information available to bona fide parties who wish to consider such a proposal. For more information in relation to the replacement of TSL as RE, please refer to the document titled "Discussions Paper – Issues for A Prospective RE" which is available via the KordaMentha and Timbercorp websites.

### **What is the status of Viability Assessments for other horticulture projects?**

Viability Assessments are still being completed for other horticulture projects.

**Timbercorp Group of Companies  
(All In Liquidation) ("the Companies")  
Companies In Liquidation**

Name	ACN	Administrator 1	Administrator 2	Administrator 3
Timbercorp Finance (Vic) Pty Ltd	091 460 356	Mark Korda	Craig Shepard	
Timbercorp Finance Pty Ltd	054 581 190	Mark Korda	Craig Shepard	
Timbercorp Treasury Pty Limited	097 898 130	Mark Korda	Craig Shepard	
Elemental Funds Management Limited	128 809 254	Mark Korda	Craig Shepard	
Agri Hort Developments Pty Ltd	115 939 994	Mark Korda	Leanne Chesser	
Almonds Investment Australia Pty Ltd	094 135 501	Mark Korda	Leanne Chesser	
Almond Land Pty Ltd	091 460 392	Mark Korda	Leanne Chesser	
Almond Management Pty Ltd	094 468 845	Mark Korda	Leanne Chesser	
Almondlot Limited	097 898 176	Mark Korda	Leanne Chesser	
Almonds Australia Pty Ltd	094 429 419	Mark Korda	Leanne Chesser	
Avcorp Management Pty Ltd	115 774 224	Mark Korda	Leanne Chesser	
Citruscorp Management Pty Ltd	105 995 257	Mark Korda	Leanne Chesser	
Grapecorp Land Pty Ltd	119 004 741	Mark Korda	Leanne Chesser	
Grapecorp Management Pty Limited	105 995 195	Mark Korda	Leanne Chesser	
Grovelot Holdings (2003 Project) Ltd	104 445 034	Mark Korda	Leanne Chesser	
Grovelot Holdings Limited	097 725 427	Mark Korda	Leanne Chesser	
Mango Land Pty Ltd	111 278 936	Mark Korda	Leanne Chesser	
Mangocorp Management Pty Ltd	111 279 004	Mark Korda	Leanne Chesser	
OIM # 10 Pty Ltd	123 041 403	Mark Korda	Leanne Chesser	
OIM #4 Pty Ltd	115 519 607	Mark Korda	Leanne Chesser	
OIM # 6 Pty Ltd	121 948 963	Mark Korda	Leanne Chesser	
OIM # 8 Pty Ltd	119 004 714	Mark Korda	Leanne Chesser	
Almond Land WA Pty Ltd	131 905 587	Mark Korda	Leanne Chesser	
Timbercorp Asset Management Pty Limited	105 888 364	Mark Korda	Leanne Chesser	
Timbercorp Glasshouse Pty Ltd	125 386 316	Mark Korda	Leanne Chesser	
Timbercorp Limited	055 185 067	Mark Korda	Leanne Chesser	
Timbercorp Lot Investments Pty Ltd	125 427 492	Mark Korda	Leanne Chesser	
Timbercorp Securities Limited	092 311 469	Mark Korda	Leanne Chesser	
B.B. Olives Pty Ltd	083 992 367	Mark Korda	Mark Mentha	
Boort Estate Pty Ltd	101 679 716	Mark Korda	Mark Mentha	
Jindalee Enterprises Pty Ltd	007 774 763	Mark Korda	Mark Mentha	
Olivecorp Groves Pty Ltd	089 242 437	Mark Korda	Mark Mentha	
Olivecorp Land Pty Ltd	090 141 512	Mark Korda	Mark Mentha	
Olivecorp Management Limited	089 542 343	Mark Korda	Mark Mentha	
Olivecorp Processing Facility Pty Ltd	098 581 081	Mark Korda	Mark Mentha	
Silvagene Pty Ltd	089 242 446	Mark Korda	Mark Mentha	
Timbercorp Forestry Pty Ltd	070 952 742	Mark Korda	Mark Mentha	Clifford Rocke
Timbercorp Lands Pty Ltd	085 886 835	Mark Korda	Mark Mentha	
Timbercorp Plantations 2002 IAB Pty Ltd	100 116 827	Mark Korda	Mark Mentha	
Timbercorp Plantations Pty Ltd	094 789 554	Mark Korda	Mark Mentha	
Timbercorp Properties Limited	074 825 675	Mark Korda	Mark Mentha	