

## **FEAGG GROWERS COMMUNICATION UPDATE NO.9**

15 October 2010

### **Court case**

The FEA Growers Group took part in the recent case in the Melbourne Federal Court (notified in the BRI Ferrier and Deloitte websites) in defending the application by the Receivers (Deloitte) for court approval of taking future steps to terminate the leases held by FEA from external landowners and the leases granted by FEA companies to FEAP.

The Federal Court recognised FEA Growers Group as a representative of Growers' interests and allowed it to be joined as a Defendant to the proceedings. At the hearing FEA Growers Group was represented by experienced counsel, Garry Bigmore SC and Sam Hopper, and instructed by FEA Growers Group's solicitors, Clarendon Lawyers. Our legal team resisted the application on various grounds that the Receivers had a duty not to disturb the rights of the Growers to cultivate and harvest the trees under their subleases and that these rights were scheme property outside the scope of the Receivers' security. Judgment has been reserved. We will notify you once judgment is handed down.

We decided to invest in fighting this case because if the Receivers' application succeeded, the Growers' rights could be extinguished, including Growers' rights to harvest and sell the trees. This would result in Growers or a new RE having to make court applications for relief against forfeiture in an attempt to reinstate leases. Court documents and submissions are available to Growers on the Deloitte website, FEA section.

### **Grower invoices**

We have been often been approached by Growers asking whether they should pay the recent invoices issued by the Administrators, BRI Ferrier. As stated in our Communication Update no 6, the risk of not paying is the Administrators may not have sufficient funds to maintain the plantations. The Administrators have advised that they will not issue default notices to Growers without prior notice to the FEAGG. In the meantime, our negotiations with commercial parties will include seeking credits to Growers that make payments. Any questions in relation to your investment product should be directed to an appropriately qualified adviser.

### **Commercial parties**

We have been working very closely for months with a number of commercial parties with a view to reconstructing or reconstituting a significant portion of the plantation schemes previously operated by the FEA Group, including interim maintenance funding. The content of these discussions are confidential. We have continued regular dialogue with the Administrators BRI Ferrier and the Receivers Deloitte.

To decide the most appropriate commercial option to recommend for Growers approval, we have engaged independent analysis to enable a proper and informed comparison between the various proposals offered by

the commercial parties. We intend to finalise a proposition within the next fortnight. This will result in a meeting of Growers called in accordance with legislation with a detailed information memorandum to enable Growers to make an informed decision.

**Your Urgent Funding Support Required**

For those of you who have supported the fundraising request we thank you for your support. Taking part in legal proceedings and defending grower rights as part of FEAGG initiatives has been and continues to be a costly exercise. Unfortunately the fundraising achievements to date are not covering the extensive legal and professional fees incurred in relation to protecting grower's investments. The FEAGG urgently need your financial support and we encourage you to make contributions now if you haven't done so already.

**Please make your contribution to the following bank account:**

**Account Name:** Clarendon Lawyers ATF FEA Growers Group Inc  
**Bank:** NAB                      **Branch:** Carlton  
**BSB:** 083-170                      Account No:17-672-6534

**Please include your name with the transfer and send a confirmation e-mail to:**

[feagg@clarendonlawyers.com.au](mailto:feagg@clarendonlawyers.com.au).

Kind regards,

Rob Burns (B. Bus CPA JP)

**Chairman of FEA Growers Group**

FEA Growers Group Inc registration no. A0054610B.

[www.feagg.com.au](http://www.feagg.com.au)