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**SOUTH AUSTRALIAN FARMERS'  
FEDERATION**

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**AUSTRALIAN BANKERS'  
ASSOCIATION**

**FARM FINANCE  
STRATEGY**

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**August 2007**

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# **SAFF / ABA FARM FINANCE STRATEGY**

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This document is the product of a consultative process between the following organisations:

- The South Australian Farmers' Federation (SAFF)
- The Australian Bankers' Association (ABA)
- Primary Industries and Resources South Australia (PIRSA)
- Rural Financial Counselling Service SA Inc (RFCSSA)
- The Law Society of South Australia (LSSA)

The purpose of this document is to set out a number of policies and procedures which the SAFF, ABA, PIRSA, RFCSSA and LSSA agree contribute to rural industry best practice. It is acknowledged that this is not a legal document and does not impose enforceable contractual obligations on any parties.

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## **PURPOSE/AIM**

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The purpose of the Strategy is for financial institutions, assistance authorities, rural organisations, primary producers and their respective financial advisers and counsellors, to work together to improve farm viability and resolve financial problems, as they arise, to the satisfaction of all involved, by

- aiming to recognise the full range of primary producers
- encouraging a framework of open communication and education
- encouraging financial planning and analysis as integral parts of daily farm management by primary producers (in order to identify opportunities and strategies for economically, and environmental sustainable farming)
- providing readily accessible information and direction for all parties involved
- encouraging primary producers to access professional advice as a part of the lending process
- encouraging early recognition by primary producers of their financial problems (including debt serviceability or farm viability) to identify opportunities and strategies for financial recovery
- providing a framework in which primary producers and financial institutions can resolve financial problems
- recognising that the adjustment of primary production out of primary industry may be traumatic and to facilitate this process, considerable sensitivity is required
- providing a brochure directing primary producers to various contact points.

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## **THE STRATEGY**

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The Strategy recognises the following key elements as part of a sound relationship between primary producers and financial institutions:

- Access to independent professional advice by the primary producer
- Early recognition of financial problems
- Resolving financial problems by negotiation
- Voluntary mediation

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### **1. ACCESS TO INDEPENDENT PROFESSIONAL ADVICE**

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Independent professional advice minimises the risks in lending and borrowing decisions and provides an opportunity for the early recognition of a primary producer's potential financial problems.

It is preferable that financial planning and analysis are a part of the daily management of primary production. Ultimately, the responsibility for improving technical and business management skills rests with the individual primary producer. However, to assist in this process, financial institutions, rural financial counsellors and the SAFF will endeavour to:

- encourage primary producers to consult independent professional advisers including agricultural consultants, rural counsellors, legal advisors, medical practitioners, and accountants
- encourage primary producers to prepare farm business plans and undertake further education and training
- support training and extension programs for primary producers aimed at improving their technical, communication and business management skills
- encourage improved communication between family members
- encourage primary producers to use resource materials such as "Agriculture Advancing Australia (AAA)" and
- encourage primary producers to access training and professional advice grants such as the "AAA Farm Help Program."

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### **2. EARLY RECOGNITION OF FINANCIAL PROBLEMS**

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Financial problems encountered by primary producers are best addressed if they are recognised at the earliest possible stage. Early problem recognition helps to:

- expand the range of options which may assist recovery
- provide time to plan for the provision of adequate cash flow and carry on requirements

- allow time for the adoption of management practices which enhance sustainable production
- minimise stress on primary producer families
- avoid the erosion of equity in farm business enterprises and
- enhance the prospects of a satisfactory outcome for all stakeholders

Financial institutions will use their best endeavours to:

- be knowledgeable and proactive about rural financial counselling services and financial assistance measures available to primary producers and their families
- keep open the levels of communication with primary producer customers
- encourage primary producer customers to take remedial action to resolve financial problems as early as possible
- inform primary producer customers of any significant change in the financial institution's opinion of a primary producer customer's ability to meet financial obligations as and when they fall due
- provide a reasonable time frame for primary producer customers to assess their situation, and seek independent advice before seeking to resolve the financial problem and
- encourage primary producer customers to contact rural financial counsellors or SAFF for assistance.

Primary producers will endeavour to

- seek to improve their technical and business management skills to ensure they run a viable business
- keep open the levels of communication with their financial institution and inform them if they believe that there are potential financial problems
- seek independent advice to assist in the identification and resolution of financial problems as soon as possible and
- present full and proper financial information and other information as required.

SAFF and Rural Financial Counsellors will endeavour to

- be knowledgeable and proactive about rural counselling services and financial assistance measures available to primary producers and their families
- seek to assist primary producers to improve their technical and business management skills

- encourage primary producer customers to take remedial action to resolve financial problems as early as possible
- encourage primary producer customers to contact rural financial counsellors or SAFF for assistance.

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### **3. RESOLVING THE PROBLEM THROUGH NEGOTIATION**

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Where a farmer or financial institution believes that a primary producer's business is not viable, or that the primary producer has a financial problem, the financial institution will attempt to negotiate a mutually satisfactory solution with the primary producer and any professional advisers (including industry organisations, farm management consultants, accountants, solicitors and financial counsellors the parties may wish to involve). Such negotiations may include a comprehensive review by the parties of the technical, financial and other options available to the primary producer.

This approach will

- maximise the potential for a favourable outcome for all parties
- minimise the tension and stress placed on the primary producer family during the negotiation process
- reduce the costs associated with the adjustment process

To encourage communication between parties to negotiations, the Strategy encourages the use of

- Rural Financial Counselling Services
- the range of State and Australian Government assistance measures available to primary producers and their families

If the parties successfully negotiate an agreement to resolve the financial problem, the terms of the agreement will be documented in a legally binding form or other document acceptable to both parties.

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### **4. VOLUNTARY MEDIATION**

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Mediation should be considered when a financial institution and the primary producer cannot resolve the financial problem by negotiation and the parties agree that the mediation may assist them in reaching an agreement. Mediation may be initiated by

- the financial institution informing the primary producers, in writing, that it wishes to use mediation
- the primary producer or his/her financial counsellor/adviser informing the financial institution, in writing, that they wish to use mediation and
- SAFF contacting the financial institution at the written request of the primary producer seeking to access the mediation process.

Prior to engaging a mediator, the financial institution and the primary producer shall agree to the terms and conditions of the mediation including:

- the mediation process to be followed, including any associated conditions such as pre-mediation, cooling off periods, where and when the mediation will take place
- the cost of the mediator's services and the apportionment of that cost between the parties
- the selection and appointment of the mediator
- what access is available to information such as records and loan contracts, during the mediation process
- that all mediation/negotiation be carried out on a non prejudice basis
- that the mediation can be terminated at any time by either party involved and
- that confidentiality is assured.

A pre-mediation conference between the parties and the mediator should be held to resolve preliminary issues including

- the issues to be mediated (unless already defined)
- representatives who will attend the mediation
- a clear understanding of what the mediation process can/cannot deliver
- what needs to be done by each party to prepare for the mediation
- a timetable for such preparation and
- the time and place for the mediation

The guidelines to be followed for the mediation process under this scheme include the following

- the mediator's role is to facilitate discussion, clarify the issues and suggest options and does not include making a finding, giving a ruling or imposing a solution on the parties
- the parties shall endeavour to have representatives in attendance who are empowered to make a decision without the need to refer the matter elsewhere for approval
- the parties shall be free to withdraw from the process at any time.
- the mediation may be carried out in joint session, by separate discussion with each party or by a mixture of both and strict legal rules of evidence shall not apply. Written opinions and reports may be submitted for consideration
- if agreement is reached it should be reduced to writing and signed before a mediation session or meeting is concluded even if it is not to be the formal settlement agreement

- if no settlement is reached the parties may continue negotiation and further mediation sessions may be scheduled and
- the mediator may interrupt, adjourn or terminate the mediation if the mediator is of the opinion that a stalemate has been reached or for other good cause.

Appendix I details the processes proposed in chart form.

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## **5. UNDERTAKINGS**

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The adjustment of primary producers out of a primary industry may be traumatic. To facilitate this process, considerable sensitivity and tact are required. There are a number of financial assistance measures available through Governments and other organisations, and the strategy requires that producers be made aware of those measures. There are a wide range of community agencies and services equipped to help in this process.

Financial institutions undertake that they will use their best endeavours to

- not attempt to recover Centrelink income support payments or Centrelink re-establishment grant funds to fund debt reduction under any circumstances
- promote the Strategy and the mediation elements of it
- promote the use of accredited mediators.

SAFF undertakes that it will use the best endeavours to

- encourage primary producers to use mediation to resolve financial problems;
- promote the strategy and the mediation elements of it;
- maintain a register of accredited mediators and promote their use; and,
- provide a reference point for enquiries from farmers, financiers and the public on the operations of the strategy.

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## **PUBLICATION**

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SAFF and ABA will prepare a brochure providing information about this strategy and distribute it to all stakeholders including primary producers, rural organisations and financial institutions.

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## **REVIEW**

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SAFF, ABA, PIRSA, RFCSSA and LSSA will consider reviewing this strategy at six monthly intervals. The review will be undertaken if any of the above mentioned parties consider it necessary.

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**APPENDIX I - FLOWCHART OF PROCESS TO MEDIATION**

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