



10 March 2006

Mr William Potts
Manager, TOFA
Business Income Division: Revenue Group
The Treasury
Langton Crescent
PARKES ACT 2600

Dear Mr Potts

I am writing in response to a request from your offices for Namoi Cotton's submission on the exposure draft legislation in respect of TOFA stages 3 and 4 focusing specifically on the commodity hedging ("ED legislation") provisions of this legislation.

I would firstly like to thank you for requesting that Namoi Cotton make a submission in respect of the ED legislation and reiterate our appreciation of the time, effort and patience Treasury have shown in this matter in completely assessing the likely taxation impacts on a number of taxpayers and seeking to have these impacts adequately addressed in the coherent principles based legislation.

In respect of the ED legislation I would like to raise the following points so as to provide clarity on the perceived impacts of the legislation on Namoi Cotton, in particular focusing on the Subdivision 230-D – Special rules about hedging financial arrangements and Subdivision 230-E Commissioner discretions.

230-80 – Hedging financial arrangement election

Namoi Cotton is of the initial interpretation that it satisfies the particular requirements of section 230-90 and 230-100 and is therefore able to make a 'hedging financial arrangement election' in respect of its hedging financial arrangements. Is it possible you could clarify the following items in respect of this election:

- Nature
- Form
- Timing
- Duration

230-85 Basic concepts: derivative financial arrangement, hedging financial arrangement and hedged item

We require more specific guidelines as to how the Commissioner would apply the provisions of paragraph (3) of this section.

230-90 Requirement about recording details of the hedge

Is it possible that Treasury elaborate on the documentation requirements contained in this section so as to give more information on the acceptable nature and form of this documentation. In addition is it possible that Treasury provide an indication as to the frequency of their expectations on this documentation.

230-95 Requirements about allocation of gains and losses

Would it be possible for Treasury to clarify how they will determine the acceptability of calculation methods for the purposes of allocating gains and losses from hedging financial arrangements.

230-115 Commissioner discretion to rely on financial records

Namoi Cotton is again of the initial interpretation that it would require the commissioner's discretion per the ED Legislation. In its interpretation Namoi Cotton would then have the ability to calculate the taxation of its hedging financial arrangements in a manner that was not consistent with the accounting standards subject to the Commissioner's discretion. In accordance with this interpretation is it possible for Treasury to clarify the manner in which the discretion will be operationally exercised.

Transitional arrangements

The ED Legislation and accompanying explanatory material provides no guidance on the transitional provisions or operative date of the final legislation. Is it possible that Treasury could outline what transitional arrangements will apply in respect of this final legislation.

In summary I would conclude that Namoi Cotton is broadly comfortable with the ED Legislation subject to clarity on the issues and items I have raised above. In the event Treasury is able to discuss or clarify these points then I see this ED Legislation as adequately addressing Namoi Cotton's concern on technical area of commodity hedging taxation.

If you have any queries prior in relation to the above, please do not hesitate to contact me on my mobile phone number 0428 116 290 or in the office on 07 4631 6104.

Kind Regards



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Chief Financial Officer

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