

# TIMBERCORP PRIMARY INFRASTRUCTURE FUND

ARSN 116 024 830

23 June 2009

ASX Online

## TPF Investor Update

Align Funds Management Limited (ACN 105 684 231) (**Align**), as the responsible entity of the Timbercorp Primary Infrastructure Fund (ARSN 116 024 830) (**TPF**), wishes to update unitholders on the discussions that it has been having with TPF's senior lender (ANZ Bank), the voluntary administrators appointed to the Timbercorp Group (**Voluntary Administrators**), Select Harvests (as the existing agri-manager of the almond orchards situated on TPF's land) and CostaExchange Limited Group (**CostaExchange Group**) (as the existing agri-manager of the citrus orchards situated on TPF's properties).

### Standstill proposal received from Voluntary Administrators

The Voluntary Administrators have submitted a proposal to Align on 18 June 2009 regarding a proposal for a "standstill" arrangement in relation to leases of TPF's properties on the following terms:

- TPF agrees to a standstill on the payment of rent for the period from 1 July 2009 to 30 September 2009 (**September Quarter**).
- Existing arrangements under the TPF Leases will be maintained and the Timbercorp Group will continue to use, occupy and remain in possession of the leased properties.
- The Voluntary Administrators will not personally adopt any of the TPF Leases and will not be personally liable for rent for the September Quarter.
- TPF's claims against the relevant Timbercorp Group companies will not be affected (i.e., TPF will still be able to claim in the administration, or subsequent liquidation, of the relevant Timbercorp Group companies for rent payable for the September Quarter).

The proposed standstill arrangement is to give the Voluntary Administrators time to finalise their investigations into the Timbercorp Group and examine whether to continue operating the various Timbercorp Grower projects being conducted on TPF's properties. The Voluntary Administrators have already indicated that they are unlikely to continue operating a citrus orchard on TPF's Solara South property that the Timbercorp Group operated for its own account.

Align is considering the Voluntary Administrators' proposed "standstill" arrangement in conjunction with its advisers and lenders, and will issue a further announcement when it has made a decision with respect to the Voluntary Administrators' proposal.

The Board of Align has however recognised that the standstill arrangement will require the procurement of a standstill (or moratorium) in respect to the payment of interest on debt facilities from TPF's senior lender and Bond Holders.

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## Moratorium proposals being submitted to the ANZ and TPF Bond Holders

Align has submitted proposals for a moratorium to the ANZ and TPF Bond Holders as a result of the insolvency of the Timbercorp Group and the Voluntary Administrators' proposal. The major aspect of the moratorium proposal is for a standstill on interest for 6 months (or until the proposals in relation to TPF's properties outlined below are implemented if that occurs at an earlier date) as it is unlikely that any rent will be received by TPF in the short-term.

In the event that ANZ and TPF Bond Holders do not agree to Align's moratorium proposals, Align is likely to seek to wind up TPF and its controlled entities, as TPF and its controlled entities will not have sufficient funds from which interest may be paid in full on the next interest payment dates to the ANZ (being 30 June 2009) and TPF Bond Holders (being 3 July 2009). Furthermore, other covenant breaches are also likely to arise.

In that case, Align anticipates that ANZ as the secured creditor in respect of TPF's properties would take possession of such properties itself or appoint a receiver/receiver and manager to do so. If upon realisation of those properties there were sufficient funds to pay out ANZ, then any surplus would be for the benefit of the TPF Bond Holders.

## Long-term proposal being developed in relation to TPF's almond orchards

Align has been discussing with stakeholders a proposal to ensure the long-term viability of TPF's almond orchards (**Almond Proposal**). At this stage, the discussions with respect to the Almond Proposal have not been finalised, and the Almond Proposal may change as discussions progress. However, in broad terms the Almond Proposal would comprise the following:

- Growers agreeing to terminate the Timbercorp Almond projects conducted on TPF's properties and contribute their 2009 proceeds to fund the operation of TPF.
- Growers receiving an equity interest in TPF which, following the implementation of the proposal, would own both the property and farm production business of the two almond properties.
- Growers agreeing to release all claims against the Timbercorp Group entities, the Voluntary Administrators and any other relevant parties.
- The Timbercorp Group agreeing to terminate all internal and external arrangements that affect TPF's almond orchards and to transfer all assets that it owns in connection with the almond orchard operations to TPF.
- TPF raising additional equity from unitholders (including the Growers) to ensure that it is appropriately capitalised following the implementation of the Almond Proposal.

The Almond Proposal would also involve Align providing asset management services in respect of the almond orchards. As part of such operations, Align would seek to renegotiate the terms of the contract with existing agri-manager, Select Harvests.

The Almond Proposal is still to be formalised and is subject to definitive documentation being entered into by the parties. It would also be subject to a number of conditions, including compliance with all relevant regulatory requirements, court approvals, unitholder and grower approvals,

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financing approvals, completion of the equity raising, any tax rulings considered necessary and an independent expert's report being obtained in respect of the Almond Proposal.

### **Short-term proposal being developed in relation to TPF's citrus orchards**

Align has been involved in extensive negotiations with the CostaExchange Group in order for the CostaExchange Group to manage the TPF citrus orchards and all of the assets of the Timbercorp Orchard Trust (ARSN 106 557 297) (**TOT**) on an interim basis whilst Align develops a long-term plan for those assets. Align will make a further announcement when such negotiations have been finalised.

We note that in the meantime CostaExchange Group has entered into crop sale agreements with the Voluntary Administrators in respect of the 2004 and 2005 Timbercorp Citrus Projects. The crop sale agreements allow for the costs of harvesting the citrus crop belonging to Growers in each of these Projects. The crop sale agreements terminate on 30 June 2009 unless TPF has agreed to a rental reduction in respect of its Solara South citrus orchard property (and TOT has agreed to a rental reduction in respect of its Kangara citrus orchard property).

The termination of the crop sale agreements would be expected to result in CostaExchange Group immediately withdrawing its management services in relation to the Solara South citrus orchard property owned by TPF.

### **Long-term proposal being developed in relation to TPF's citrus orchards**

TPF has also been discussing with stakeholders the long-term future of TPF's citrus orchards (**Citrus Proposal**). At this stage, Align envisages that the Citrus Proposal would be similar to the Almond Proposal, except that:

- A separate agri-manager would be appointed. To that end, Align has been having discussions with CostaExchange Group in relation to the management of the TPF's citrus orchard property and TOT's properties on a long-term basis.
- A proposal is likely to be considered whereby the Solara South citrus orchard is transferred to TOT, which owns the Kangara citrus orchard property that is also managed by the CostaExchange Group. The reason for considering such a proposal is to obtain efficiencies associated with having the citrus orchard properties under common ownership. In the event that proposal was implemented, Growers that have interests in the 2005 Timbercorp Citrus Project conducted on Solara South would acquire an interest in TOT, rather than TPF.

The Citrus Proposal is still to be formalised and is subject to definitive documentation being entered into by the parties. It would also be subject to a number of conditions, including compliance with all relevant regulatory requirements, court approvals, unitholder and grower approvals, financing approvals, any tax rulings considered necessary and an independent expert's report being obtained in respect of the Citrus Proposal.

### **The report of Voluntary Administrators to creditors of the Timbercorp Group**

We note that the Voluntary Administrators issued a report to creditors of the Timbercorp Group dated 18 June 2009. As part of the report, the Voluntary Administrators concluded that it was in their opinion that it would be in creditors' interests for each company within the Timbercorp Group to be

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wound up. Creditors of the Timbercorp Group (including TPF) will vote on whether to wind up the Timbercorp Group at 1.00 pm on Monday, 29 June 2009.

### **The relationship of the Timbercorp Group to Align and the Timbercorp Primary Infrastructure Fund**

Align wishes to draw the following matters to the attention of investors:

- No executive of the Timbercorp Group is a director or officer of Align.
- We note that the Timbercorp Group holds Units in TPF (approximately 46.4%) and shares in Align (approximately 32.4%). However, the Voluntary Administrators of the Timbercorp Group have not sought to use such ownership interests to dictate how Align responds to the insolvency of the Timbercorp Group.

Yours sincerely



TREVOR MOYLE  
CHAIRMAN