PRICEWATERHOUSECOOPERS

Update regarding the farmers' tax position

As you are aware from previous correspondence, we have been liaising with HM Revenue and Customs ("HMRC") since last summer to clarify the tax position facing the farmer members in respect of their different types of investment in Dairy Farmers of Britain ("DFB"). In particular we have concentrated on the amounts held in the Members Investment Accounts ("MIAs") that were converted to A Ordinary shares on 27 March 2009.

We put a case to HMRC that the loss of the milk monies retained in the MIAs that were converted to A Ordinary shares, should be treated as a deduction against income on the basis that the amounts arose from trading activities, citing relevant case law. This was a similar stance as taken by the NFU's Chief Taxation Adviser.

HMRC has now produced the following revised guidance in respect of the farmers' tax position, please click on the link below. Please note that the guidance focuses primarily on the tax treatment for members who are individuals and partnerships where the partners are individuals.

http://www.hmrc.gov.uk/briefs/income-tax/brief0510.htm

In summary, despite the case presented to allow income tax relief in respect of the milk monies retained in the MIAs (converted to A ordinary shares on 27 March 2009) the guidance **only** allows income tax relief in respect of unpaid milk cheques.

Farmers, who at the time of our appointment as Receivers, had outstanding accounts to file (for tax purposes) need to read the guidance carefully. This is because there is a small accounting opportunity whereby a member may treat the retentions to be included in any unfiled accounts as excluded from turnover, meaning no income tax would be payable on those retentions.

The table below shows a summary, taken from the HMRC guidance, of the different types of investments that you may have held in DFB and whether a capital loss should be available in respect of these different investments. Please refer to the HMRC guidance for further details.

Type of share/debt	**Allowable capital losses**
Ordinary shares	Yes
A Ordinary shares	Yes*
B Ordinary shares	Yes
Preference shares	Yes
Loan Stocks**	No because they are qualifying corporate bonds ("QCB").
Member's liability loan	Yes
Member's capital account	Only on balances arising after 27 March 2009, which we understand to be nil.
Member's investment account	Only on balances arising after 27 March 2009, which we understand is simply the April milk retention, to the extent that these balances have not been excluded from the calculation of income. Please see comments above regarding accounting opportunity.

* The amount of the loss may be nil dependent on the type of debt or investment that was converted into A Ordinary shares and the valuation of the A ordinary shares on the 27 March 2009. Please see HMRC guidance for further details.

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The current HMRC view is that the value of the A Ordinary shares at 27 March 2009 is likely to have been £nil (subject to the receipt of evidence to the contrary), which will restrict the capital loss available in the majority of cases.

** Loan Stock 2012, 2014, 2015, 2016, 2017 and 2018 (all QCB).

The key question that members have raised with us is whether they were disadvantaged in relation to their income tax affairs by the Council's approval to allow the MIAs to be converted to A Ordinary shares on 27 March 2009. The key point is that even if the milk retentions had stayed in the MIAs (and conversion had not happened) there **still** would have been no ability to claim the loss against income tax as the MIAs are capital not income.