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LONG-TERM THINKING FOR TODAY'S ISSUES

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August 30, 2021

Attention: Shain Cameron  
Farm Finance Branch  
Ontario Ministry of Agriculture, Food and Rural Affairs  
1 Stone Road West  
Ontario Government Building,  
Second Floor, Southeast  
Guelph, ON N1G 4Y2  
Via email: [registryfeedback@ontario.ca](mailto:registryfeedback@ontario.ca); [shain.cameron@ontario.ca](mailto:shain.cameron@ontario.ca);

**Re: 21-OMAFRA012 Proposed changes to combine the Grains Act, the Livestock and Livestock Products Act, and the Farm Products Payment Act, which govern Ontario's Financial Protection Programs. The new Act will be updated to make it more flexible, modern, reflective of current industry and board governance best practices.**

Dear Ministry,

The Christian Farmers Federation of Ontario (CFFO) is an Accredited Farm Organization representing the interests of over 4,000 farm families in Ontario who are called to the vocation of farming. CFFO policy promotes economically, socially, and environmentally sustainable farming, advocating that farmers receive fair return for their production and stewardship efforts.

The CFFO welcomes efforts by the government to streamline and update financial protection programs for producers. The CFFO supports efforts by government through this process to find financial protection tools appropriate to protect producers of other commodities in the province as well as beef and grain farmers.

### **Updating and Streamlining Financial Protection Programs Legislative Framework**

The CFFO supports the move to consolidate the *Farm Products Payment Act*, the *Grains Act*, and the *Livestock and Livestock Products Act* into a single act focused on financial protection for producers of agricultural products. The CFFO also supports the proposed power to issue cost orders to dealers for the costs of adjudicating a claim and the power to issue an order to pay against a dealer, both helping to reduce cost burdens to the Boards and to increase enforcement power.

Through this consolidation process, the CFFO does not support removal of rights to appeal that previously existed under any of the three current Acts. For example, dealers should still be allowed to appeal an order to pay to the Tribunal. However, if the appeal is lost, costs of the appeal should also be added to the order to pay.

## Financial Protection Programs for Other Sectors

The CFFO sees value in expanding the power to offer financial protection programs for other agricultural products beyond grains and beef. Having tools to help ensure producers are paid, beyond the current structure of a checkoff fee and Board to manage claims, will be important to ensure financial protections can be flexible to best address the needs of different sectors. The CFFO supports inclusion of tools such as trust accounting where there is no fund to compensate producers.

For the sake of avoiding redundancy and making the best use of existing systems of governance, the CFFO also supports authorizing third-party licensing in order to fulfill the requirement to be licensed for this *Act*. The CFFO would like further clarification on the circumstances under which third-party regimes would have the power to revoke licences in order to enforce payment rules. Rules governing third-party regimes should be the same or similar to those for licences issued under the *Act* itself.

## Rules to Obtain and Renew a Licence

The CFFO is in support of the proposed changes to strengthen rules around renewing and obtaining a licence, including use of compliance history, power to refuse to grant a licence due to causing claims to be paid from a fund, power to create a public registry with specific dealer information, power to request public access/display of licence, and a clear definition of a livestock agent or shared licence. The CFFO also supports clarity on the ownership of agricultural products in storage.

The CFFO supports clear definition of what will qualify as security for those dealers who do not meet the financial viability threshold. We are also in favour of allowing security to be used both to cover the costs of claims made as well as the costs to investigate these claims. The CFFO also sees value in allowing payables insurance as a form of security for those dealers below the financial viability threshold.

## Expanding Enforcement Tools

The CFFO recognizes that too few tools, or limited tools that are too heavy handed, will not be effective at enforcing compliance with the *Act*. The CFFO therefore supports efforts to introduce more nuanced options for enforcement, allowing lesser forms of redress for lesser transgressions, and more stringent consequences for more severe transgressions. The CFFO supports including those tools described including compliance orders, freeze orders, administrative monetary penalties (AMPs), and increased fines.

The CFFO recommends that regulations will need to make clear which of these enforcement tools will apply in which situation to ensure that the enforcement response is appropriate to address the issue effectively but not overly punitively. The CFFO also recommends using education to encourage compliance first, before enforcement tools are used.

## Fund Management and Claims Adjudication

The CFFO supports the proposal to ensure clarity about who may make claims from a fund. Those who do not pay into a fund should not be allowed to make claims from the fund, including those from out-of-province.

The CFFO does not support the proposal to allow borrowing between funds managed by a Board. The Livestock Board already has the authority to borrow money if there are insufficient funds to pay a claim

from a fund. The CFFO supports recommended changes that would allow all Boards the power to borrow money in such situations, which should be sufficient to address this issue.

## Appeals Provisions

The CFFO is in support of the proposed changes to the appeals provisions including allowing the Tribunal to review a Director's decision rather than holding a new hearing, requiring the Director to hold a hearing when a licensee requests, but not when no request is made in the event that a licence or renewal is refused, or a licence is cancelled or suspended, and allowing the Divisional Court to review a Tribunal decision on a "reasonableness" standard.

## Program Delivery and Administration

The CFFO is supportive of efforts to allow greater flexibility in program delivery and reduce administrative burden, such as the rigorous reporting currently required of the Boards because they are defined as provincial agencies. However, it is also important that commodity expertise is represented in the Boards managing funds on behalf of producers.

The CFFO supports proposed changes that would allow for alternative delivery options for licensing and allowing the Minister or delegated administrative authority (such as Agricorp) to prescribe fees and other administrative matters.

The CFFO does not support proposed changes that would allow one Board to manage multiple funds for different sectors. While currently the Grain Board manages four grain-related funds, there are separate Boards for the grain funds and the livestock fund. The CFFO would not like to see one Board managing all funds under the protection program, for example, because the required commodity expertise would not be possible with a single oversight Board.

## Other Administrative Changes

The CFFO is generally supportive of the further administrative changes proposed, including changing definitions to move away from commodity specific language, changing regulation making power to the Minister for all commodities, improving consistency between the programs, updating corporate governance provisions such as allowing panels to hear claims rather than the whole Board.

We do highlight again here, however, that Boards should be made up of representatives with commodity-specific expertise, and so Boards should only manage funds under a common sector, such as grains, livestock, or fresh vegetables for example. While the current Grain Board manages four different grain funds, the CFFO does not want to see a single Board managing all the funds within the financial protection program.

The proposed changes do not outline the process that will be required for other commodities beyond beef and grains to enjoy the protection of the tools provided through this legislation. The CFFO requests that that process be outlined in more detail and that other commodities not currently protected by this legislation be informed of the option to participate in these protections.

## Conclusion

The CFFO supports government efforts to streamline and update the legislative framework for the financial protection program for producers. These updates should offer more tools to ensure

compliance and relieve some administrative burden, thus reducing costs and improving overall protection for producers. The CFFO encourages an approach using education to encourage compliance followed by escalating efforts to enforce compliance.

The CFFO supports efforts by government through this process to find financial protection tools appropriate to protect other commodities beyond the current grain and beef producers who benefit most from these programs. The process for other commodities to participate in these protections needs to be made clear. It is also important that commodity expertise continues to be reflected in the Boards that govern these funds.

We appreciate your consideration of our concerns and comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ed Scharringa', with a long horizontal flourish extending to the right.

Ed Scharringa, President  
Christian Farmers Federation of Ontario