

News release



19 December 2017

ASX Announcement

Notes and Convertible Preference Shares

Further to the announcement of the proposed sale of all of Murray Goulburn Co-operative Co Limited's (**MG**) operating assets and operating liabilities to Saputo Dairy Australia Pty Ltd (**Saputo**), MG has amended¹ the terms of the Notes and Convertible Preference Shares (**CPS**) held for the MG Unit Trust to ensure that all MG Unit Trust unitholders and MG shareholders will be treated equivalently as to the amount and timing of the distribution of the proceeds of the Saputo transaction.

MG intends to make an estimated initial distribution of the net sale proceeds of approximately \$0.75 per MG Unit Trust unit and MG share to be paid to unitholders and shareholders shortly after the completion of the sale².

As previously announced, MG will retain part of the sale proceeds to ensure that the MG Board is able to appropriately manage any potential exposure associated with the current ACCC proceeding and the unitholder class action (and any similar actions). The retention amount is not an indication by MG that it has any actual liability in respect of these actions, which MG is defending. Further cash distributions to unitholders and shareholders are expected upon conclusion of the regulatory action and class action, or earlier if appropriate.

MG has notified MG Responsible Entity Limited (**MGRE**) that MG has calculated that the estimated Full Value for the purpose of clause 5 of the Note terms and CPS terms is \$1.12³ per MG Unit Trust unit and MG share, which amount is before the retention by MG of part of the sale proceeds for the regulatory action and class action (and any similar actions). Accordingly, the final amount available for distribution to unitholders and shareholders, after taking into account working capital adjustments and other costs and the conclusion of these matters, may be more or less than this estimate.

In accordance with clause 5(c) of the Note terms and CPS terms MGRE has appointed an independent expert to assess whether the calculation of Full Value provided by MG is fair and reasonable having regard to the Note terms and CPS terms and the terms of the Saputo transaction.

The amendment to the terms of the Notes and CPS is necessary to ensure that MG Unit Trust unitholders and MG shareholders are treated equivalently in relation to the distribution of the proceeds of the Saputo transaction. The principle of the relationship between MG Unit Trust units and MG shares through the terms of the Notes and CPS is that they are economically equivalent. Prior to the amendment, the terms of the Notes and CPS required the Notes and CPS to be redeemed and/or cancelled upon the completion of the sale. This is not appropriate in

¹ In accordance with clause 16.2 of the Note terms and the Convertible Preference Share terms MG may amend those terms without the approval of MG Responsible Entity Limited (**MGRE**) or of unitholders if MG is of the opinion that such amendment is not, and is not likely to become, taken as a whole and in conjunction with all other amendments to be made contemporaneously with that amendment, materially prejudicial to the interests of the holder of the Notes or Convertible Preference Shares and if that holder is the trustee of the MG Unit Trust, the unitholders of the MG Unit Trust. The Board of MGRE has established an independent sub-committee of directors for the purposes of reviewing the amendments.

² The sale remains subject to the approval of an ordinary resolution of MG's voting shareholders and other conditions including ACCC and FIRB approvals.

³ MG maintains its estimated net value per MG share and MG Unit Trust unit of \$1.10 to \$1.15 after working capital adjustments and other costs. This amount takes account of the repayment of Murray Goulburn's bank debt and US Notes program (including any make whole fees) at completion of the Saputo transaction, transaction costs, outstanding tax or other liabilities and the expected costs of continuing to operate Murray Goulburn while the regulatory action and class action (and any similar actions) continue. This does not include the payment of any amount which may ultimately arise as a result of the regulatory action or class action (and any similar actions), which would reduce proceeds available for distribution to unitholders and shareholders.

the present circumstances as the final amount of the sale proceeds that will ultimately be available to MG Unit Trust unitholders and MG shareholders following the conclusion of the regulatory action and class action (and any similar actions) can only be estimated. The use of an estimate is highly likely to result in unitholders and shareholders receiving a different amount.

The amendment to the Note terms and CPS terms means that Notes and CPS will continue on issue and MG Unit Trust unitholders and MG shareholders will ultimately receive the same⁴ amount of the proceeds of the Saputo transaction, with unitholders to be paid on the same day as, but before MG pays shareholders, in respect of each distribution.

MG will make the distributions of the sale proceeds as soon as practicable after completion of the sale, subject to MG maintaining its capacity to meet its potential liabilities and MG considering (acting reasonably) that the amount of the distributions and timing is in the best interests of unitholders and shareholders. It is likely that the class action would be set down for trial commencing within the next 1-2 years.

Following conclusion of the regulatory action and class action (and any similar actions) MG will be wound up and a final distribution of any available amount will be made to all unitholders and shareholders. In conjunction with the winding up of MG, the MG Unit Trust will also be wound up.

The revised clause 5 of the Note terms and the CPS terms is attached with the amendments shown as underlined.

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About the MG Unit Trust

The MG Unit Trust (ASX:MGC) is a special purpose funding vehicle which provides its unitholders with an economic exposure to the business of Murray Goulburn Co-operative Co. Limited (Murray Goulburn). The Responsible Entity of the MG Unit Trust is MG Responsible Entity Limited, a wholly-owned subsidiary of Murray Goulburn.

⁴ On the winding up of MG, CPS are entitled to a preference payment of 1 cent for each CPS then on issue before the general distribution of any surplus to unitholders and shareholders.

Revised clause 5 of the Note terms

5. Change of Control

- (a) If MG announces a proposal, or another party publicly announces a proposal or offer that is capable of acceptance or approval and if accepted or approved by MG or by a majority of MG's shareholders, would result in a Change of Control Event (**Offer**), then MG must no later than two weeks after its announcement of its proposal or no later than two weeks after the earlier of the receipt by it or its shareholders of the Offer from another party, notify the Trustee of:
 - (1) the full terms of the Offer; and
 - (2) MG's calculation of the Full Value to be received by the holders of Shares for each Share under the terms of the Offer if the Change of Control Event was to occur, such value either to be the value received by the holders of Shares directly or indirectly if MG would receive the consideration for the Change of Control Event.
- (b) Full Value for the purposes of this clause 5 must include the value of any collateral benefit or indirect consideration or benefit that the holder of a Share would receive directly or indirectly if the Change of Control Event was to occur.
- (c) The Trustee must appoint a third party independent expert (**Independent Expert**) to assess whether the calculation of Full Value provided by MG is fair and reasonable having regard to the principle that the Holder is to receive an equivalent value for each Note, as a consequence of the Change of Control Event, as the value received by the holder of a Share directly or indirectly (including the value of any collateral benefit or indirect consideration or benefit) as a consequence of the Change of Control Event.
- (d) MG must promptly provide to the Trustee for provision to the Independent Expert, all information that the Independent Expert requests to enable the Independent Expert to make its assessment of Full Value.
- (e) If the Independent Expert determines that the Full Value is higher than that notified by MG to the Trustee, including after any revisions to that value as a consequence of clause 5(f), then that higher Full Value is the Change of Control Amount. In any other case, the Change of Control Amount is the latest Full Value notified to the Holder by MG that has been considered by the Independent Expert.
- (f) If there are any changes to the terms of the Offer or there are any alternative or competing offers that MG determines are superior to the first Offer or MG otherwise recommends, MG must promptly provide full details of those changes or alternative or competing offers accompanied by MG's calculation of the Full Value as a result of the changes to the terms of the Offer or of the alternative or competing offer to the Trustee and the Independent Expert to enable them to make a further assessment of Full Value and the Change of Control Amount, in accordance with clause 5(c).
- (g) On the day of the Change of Control Event, MG must either redeem, or cause the transfer to a party selected by MG at its complete discretion of, each Note for its Change of Control Amount. The Change of Control Amount must be paid to the Holder on the day of the Change of Control Event. If MG receives the consideration for the Change of Control Event, it must pay the Change of Control Amount to the Holder before distributing any amount received in relation to the Change of Control Event to its shareholders.
- (h) Each Holder is deemed to have agreed to the redemption or transfer of their Notes in accordance with these Terms of Issue.
- (i) Each Holder is taken to have irrevocably offered to sell some or all of their Notes as directed by MG, if MG elects to transfer those Notes.
- (j) Notwithstanding clause 5(g), MG is not required to redeem, or cause the transfer to a party selected by MG, of each Note for its Change of Control Amount on the day of the Change of Control Event where the Change of Control Event is as a result of the sale by MG of all or substantially all of the assets of MG and where MG reasonably determines to retain a material amount of the proceeds of the sale to meet potential liabilities.
- (k) If clause 5(j) applies, then:
 - (1) on and after the Change of Control Date, MG must comply with clauses 3, 6 or 7.3 with respect to the distribution of any amount by MG to the Holder, provided that the distribution of any amount by MG to the Holder in accordance with those clauses must be paid on the same day, but before, MG pays the relevant Dividend, reduction of capital or distribution of surplus to ordinary shareholders referred to in those clauses; and
 - (2) if in accordance with clause 5(e) the Independent Expert determines that the Full Value is higher than that last notified by MG to the Trustee, the difference between the Full Value notified by MG to the Trustee and the Full Value determined by the Independent Expert must be paid by MG to the Holder on the same day as MG first makes any distribution to the Holder in accordance with clause 5(k)(1).

- (l) MG will make the distribution or distributions referred to in clause 5(k)(1) as soon as reasonably practicable after the Change of Control Date, subject to MG maintaining its capacity to meet its potential liabilities and MG considering (acting reasonably) that the amount of the distributions and timing of the distributions is in the best interests of MG shareholders and the unitholders of the MG Unit Trust.

Revised clause 5 of the CPS terms

5 Change of Control

- (a) If MG announces a proposal, or another party publicly announces a proposal or offer that is capable of acceptance or approval and if accepted or approved by MG or by a majority of MG's shareholders, would result in a Change of Control Event (**Offer**), then MG must no later than two weeks after its announcement of its proposal or no later than two weeks after the earlier of the receipt by it or its shareholders of the Offer from another party, notify the Trustee of:
 - (1) the full terms of the Offer; and
 - (2) MG's calculation of the Full Value to be received by the holders of Shares for each Share under the terms of the Offer if the Change of Control Event was to occur, such value either to be the value received by the holders of Shares directly or indirectly if MG would receive the consideration for the Change of Control Event.
- (b) Full Value for the purposes of this clause 5 must include the value of any collateral benefit or indirect consideration or benefit that the holder of a Share would receive directly or indirectly if the Change of Control Event was to occur.
- (c) The Trustee must appoint a third party independent expert (**Independent Expert**) to assess whether the calculation of Full Value provided by MG is fair and reasonable having regard to the principle that the Holder is to receive an equivalent value for each CPS, as a consequence of the Change of Control Event, as the value received by the holder of a Share directly or indirectly (including the value of any collateral benefit or indirect consideration or benefit) as a consequence of the Change of Control Event.
- (d) MG must promptly provide to the Trustee for provision to the Independent Expert, all information that the Independent Expert requests to enable the Independent Expert to make its assessment of Full Value.
- (e) If the Independent Expert determines that the Full Value is higher than that notified by MG to the Trustee, including after any revisions to that value as a consequence of clause 5(f), then that higher Full Value is the Change of Control Amount. In any other case, the Change of Control Amount is the latest Full Value notified to the Holder by MG that has been considered by the Independent Expert.
- (f) If there are any changes to the terms of the Offer or there are any alternative or competing offers that MG determines are superior to the first Offer or MG otherwise recommends, MG must promptly provide full details of those changes or alternative or competing offers accompanied by MG's calculation of the Full Value as a result of the changes to the terms of the Offer or of the alternative or competing offer to the Trustee and the Independent Expert to enable them to make a further assessment of Full Value and the Change of Control Amount in accordance with clause 5(c).
- (g) On the day of the Change of Control Event, MG must buy-back, cancel or cause the transfer to a party selected by MG at its complete discretion of, each CPS for its Change of Control Amount. The Change of Control Amount must be paid to the Holder on the day of the Change of Control Event. If MG receives the consideration for the Change of Control Event, it must pay the Change of Control Amount to the Holder before distributing any amount received in relation to the Change of Control Event to its shareholders.
- (h) Each Holder is deemed to have agreed to the buy-back, cancellation or transfer of their CPS in accordance with these Terms of Issue.
- (i) Each Holder is taken to have irrevocably offered to sell some or all of their CPS to MG or as directed by MG, if MG elects to buy-back or transfer those CPS.
- (j) If MG elects to buy-back, cancel or transfer CPS, the Trustee must if it is the Holder, or if it is not the Holder, the Trustee must procure that the Holder, and the Holder must:
 - (1) vote in favour (subject to compliance with law, subject to a vote being required and to the extent that the Holder is entitled to do so) or otherwise abstain from any required resolution;
 - (2) provide all documentation and execute any authorisation or power necessary; and
 - (3) take all other action necessary or desirable, to effect the buy-back, cancellation or transfer.
- (k) If MG elects to buy-back, cancel or transfer CPS, the Trustee must if it is the Holder, or if it is not the Holder, the Trustee must procure that the Holder, and the Holder must, refrain from taking any action which would prevent the buy-back or transfer.
- (l) Notwithstanding clause 5(g), MG is not required to buy-back, cancel or cause the transfer to a party selected by MG, of each CPS for its Change of Control Amount on the day of the Change of Control Event where the Change of Control Event is as a result of the sale by MG of all or substantially all of the assets of MG and where MG reasonably determines to retain a material amount of the proceeds of the sale to meet potential liabilities.

(m) If clause 5(l) applies, then:

(1) on and after the Change of Control Date, MG must comply with clauses 3, 6 or 7.3 with respect to the distribution of any amount by MG to the Holder, provided that the distribution of any amount by MG to the Holder in accordance with those clauses must be paid on the same day, but before, MG pays the relevant Dividend, reduction of capital or distribution of surplus to ordinary shareholders referred to in those clauses; and

(2) if in accordance with clause 5(e) the Independent Expert determines that the Full Value is higher than that last notified by MG to the Trustee, the difference between the Full Value notified by MG to the Trustee and the Full Value determined by the Independent Expert must be paid by MG to the Holder on the same day as MG first makes any distribution to the Holder in accordance with clause 5(m)(1).

(n) MG will make the distribution or distributions referred to in clause 5(m)(1) as soon as reasonably practicable after the Change of Control Date, subject to MG maintaining its capacity to meet its potential liabilities and MG considering (acting reasonably) that the amount of the distributions and timing of the distributions is in the best interests of MG shareholders and the unitholders of the MG Unit Trust.