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# BC Farm Industry Review Board

March 30, 2020

File: 44200-60\QATE

## DELIVERED BY EMAIL

Gunta Vitins, Chair  
BC Egg Marketing Board  
250 – 32160 South Fraser Way  
Abbotsford, BC V2T 1W5

Dear Ms. Vitins,

## QUOTA ASSESSMENT TOOLS REVIEW – BUSINESS UNIT DEFINITION

The BC Farm Industry Review Board (BCFIRB) thanks the BC Egg Marketing Board (Egg Board) for its revised definition of “Business Unit” received on February 27, 2020 (the February 2020 definition). The revised definition is in response to BCFIRB’s concerns articulated in its January 30, 2020 prior approval decision. The Egg Board’s proposed February 2020 definition is as follows:

Registered Producers where the direct or indirect interest in which is exclusively held by the same Person or Persons, in the same proportion, for each such Registered Producer.

For the reasons provided below, BCFIRB is satisfied the February 2020 definition aligns with BCFIRB’s quota management policies and is clear and understandable.

## Background

On February 2, 2018, BCFIRB issued several quota management directions to all BC supply-managed boards, including the Egg Board, as part of the Quota Assessment Tools Supervisory Review (Quota Review).<sup>1</sup>

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<sup>1</sup> 2018 February 2. BCFIRB. [In the Matter of the Natural Products Marketing \(BC\) Act and Quota Assessment Tools Supervisory Review](#).

Section 37(c) of the BC Egg Marketing Scheme<sup>2</sup> requires the Egg Board to receive BCFIRB's prior approval before prescribing any quota management terms and conditions that may add to those already directed by BCFIRB under the Quota Review.

In the Quota Review, BCFIRB directed that:

179. If boards cease to use LIFO (on all quota held by a producer) and 10/10/10 (on growth quota), these quota management rules are to be replaced with the following:

....

- c) Quota holders are not eligible to receive growth quota for 12 months following a transfer of any quota, with one exception as follows:
  - i. If a quota transfer does not result in an overall change in total quota holdings within a **business unit** (e.g. within a corporation), quota holders within that business unit remain eligible to receive growth. [emphasis added]

BCFIRB chose not to define "Business Unit" in its Quota Review decision. It left the definition to the commodity boards. In BCFIRB's view, commodity boards are in a better position to define "Business Unit" based on the respective business structures in their sectors.

The Egg Board proposed the following definition of "Business Unit" on November 4, 2019 (November 2019 definition):

- a) two or more corporate Registered Producers, the direct or indirect interest in which is exclusively held by the same individual;
- b) two or more corporate Registered Producers, the direct or indirect interest in which is exclusively held by the same group of individuals, in the same proportion, for each such corporate Registered Producer; or
- c) an individual who is a Registered Producer, and one or more corporate Registered Producers, the direct or indirect interest in which is exclusively held by that individual.

On January 30, 2020, BCFIRB approved the November 2019 definition in principle<sup>3</sup> but directed the Egg Board to revise the wording to make it "accurate and clear" by February 28, 2020. Some of BCFIRB's concerns with the November 2019 definition were: 1. it was not immediately obvious that paragraphs b and c were to be read together; and 2. by using the word, "corporate", it was not clear whether partnerships or other business structures were included.

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<sup>2</sup> 37(c) to issue quotas to registered producers as is deemed necessary, such quotas to remain at all times the property of the board and, subject to prior approval of the Provincial board, to vary such quotas and prescribe the terms and conditions upon which they shall be issued or transferred, provided that the board shall not at any time issue to any registered producer a quota in excess of 5% of the total of all such quotas issued;

<sup>3</sup> 2020 January 30. BCFIRB. [In the Matter of the Natural Products Marketing \(BC\) Act and the Prior Approval of the BC Egg Marketing Board Business Unit Definition.](#)

## Rationale

BCFIRB's January 30, 2020 decision states:

21. BCFIRB's Quota Review direction [on the 12-month moratorium] arose from its position that some degree of check and balance to manage the financial gain incentive was still needed with the removal of Last In / First Out (LIFO). It was not intended to hinder individuals making certain farm management decisions such as managing production between farms. BCFIRB supports the Egg Board in developing a business unit definition that reflects the egg sectors structure.

Unlike the Egg Board's proposed definition in November 2019, the February 2020 definition uses defined terms from the Consolidated Orders (Person, Producer, Registered Producer). It also resolves the other concerns relating to clarity that BCFIRB had with the November 2019 decision.

Under the February 2020 definition, producers may transfer quota to another farm business where they hold a direct or indirect interest without triggering the 12-month moratorium, provided the transfer is in the "same proportion". The "...same proportion..." wording means the 12-month moratorium will not be triggered when a producer is transferring quota between farm enterprises where the ownership percentages are the same. If a producer transfers quota between farm enterprises where the ownership percentages are not the same, the 12-month moratorium will be triggered. While the proportion clause appears to potentially create a disincentive for producers to transfer quota between farms, it is consistent with the Egg Board's quota transfer rules where a transfer is deemed to have occurred if a producer's share in a business changes.

Overall, BCFIRB is satisfied the February 2020 definition aligns with BCFIRB's quota management policies and is clear and understandable.

If you have any questions, please feel free to contact myself or BCFIRB staff.

Best Regards,

A handwritten signature in black ink, appearing to read "Peter Donkers", with a stylized flourish at the end.

Peter Donkers  
Chair

cc: BCFIRB web site