Texas Grain Producer
Indemnity Fund Program

FAQ

SUPPLEMENT SHEET

Is open stored grain covered and at what price?

If all of the open stored grain is still in place TDA or the FGIS will sell the grain or return it for the benefit of the owner. If a portion of the open stored grain is in place TDA and FGIS will prorate the remaining grain to the owners and the indemnity fund will cover 85% of any producer loss. If all of the grain is missing the indemnity fund will cover 85% of producer losses. The price for open stored grain will be set on the day the financial failure is declared. The price is set from local cash prices representative of the area of the failed grain buyer.

Who verifies if the producer has produced grain in the last 36 months?

The producer self certifies that he has produced grain at least once in the previous 3 years. TDA personnel will count and review the ballots. They will have the discretion to randomly audit or specifically check any ballot(s) to maintain the integrity of the referendum. TDA can require a voter to prove production in the previous 36 months before the ballot is counted.

Since it has already been voted down before, why is it going to vote again?

The TGPIB heard the message conveyed by the producers who voted in the 2012 referendum. The board went to work to resolve the problematic issues identified including the cost of the fund, the level of the indemnity fund coverage (deductible), and the refund process. The board knows grain buyer financial failures will continue and the need for producer protection still exists.

TEXAS GRAIN
PRODUCER INDEMNITY FUND

What is the cost of the reinsurance, and who are you purchasing it from?

The TGPIB has been working with Farm Credit Services to access the insurance industry. We have worked with a major international insurance brokerage firm to get bids from various reinsurers. The bids were based on actual grain buyer financial information submitted directly to the brokerage firm. The bids we have received have been very competitive and affordable. We have complete confidence in the process but we cannot control changes in the financial industry which might cause the rate to change. Therefore it is not prudent for us to quote specific numbers. Many insurance companies will be asked to bid on the coverage. For these reasons we cannot state which company will be the insurance provider or the exact price.

What kind of policing effort will there be in verifying who is eligible to receive a payment?

Producers must submit written documentation to substantiate a claim. Scale tickets, warehouse receipts, and written contracts are acceptable instruments for proving a claim. The board has the right to investigate any claim to maintain the integrity of the fund.

What happens if someone doesn't collect the assessment?

If the grain buyer is not collecting the assessment and the producer knows this in advance of grain delivery, this is cause for denial of a claim in the event of a financial failure. If the grain buyer is collecting the assessment but fails to submit the assessment to the TGPIB then the producer will be held harmless in the event of a grain buyer failure. The TGPIB and/or TDA has the right under Agricultural Code Chapter 41, Sub-chapter F to seek legal remedies if a grain buyer refuses to collect the assessment or fails to submit collected assessments to the TGPIB. There is also a provision in Sec.41-102 which allows TDA to revoke any state licenses held by a grain buyer who fails to collect or submit the assessment.

Who certifies that the assessment was paid to the board?

The TGPIB will receive a list of the producers and amount paid by each producer from the grain buyer when assessments are submitted. The board will maintain records of the amounts paid per producer so refunds can be issued at appropriate designated times.

Why a refund process instead of just suspending the assessment?

If the fund is suspended, new producers or producers who expand their operations producing more grain will not be carrying their fair share of the load. Producers who retire, or the heirs of producers who die, will not have the opportunity to get back the assessments paid in while the fund was being established. A refund system is the fairest method for all. Also it is not efficient for grain buyers or the TGPIB to suspend and resume the assessment. Grain buyers would have to adjust their software to collect and submit the assessment with each change. The board would have to send out written notices for each change plus maintaining staffing to handle the assessment would be difficult. Loss of efficiency would increase the cost of the program for the board and ultimately the producer.

What are the reasons for this not being a voluntary program?

What makes the indemnity fund work is having a large enough pool of producers to distribute the risk load just as it is with any insurance program. After every grain buyer financial failure the common statement of those who lose money is they never expected it to happen to them. Their grain buyer was a great person that they have done business with for 10, 20, 30 or more years. The fund is a very practical and low cost insurance to handle the risk associated with selling grain and unlike the property insurance a producer buys, there is the opportunity to get the cost of the program refunded. The insurance program is based on the financial review of the grain buyer by the insurance provider. It would become very costly to the indemnity fund for the insurance industry to do a review of a grain buyer and potentially only a handful of producers sign up for coverage by the fund. This would create higher insurance rates per dollar of assessment collected and an end result of higher cost for protection.

Does it not take some of the competitive edge away from people who have good business practices? For example if I buy at $.05 but guarantee payment within 30 days but the elevator in the next town over is buying it for $.20 but has history of late payments.

The indemnity fund will cause producers to be more aware of the risk associated with delivering and selling grain. There is a 15% deductible which producers should take into account when picking a grain buyer. Some of the grain buyers who are noted for late payments do not use written contracts. In order to have protection from the fund, producers must be able to provide a signed written contract if the grain has been sold or contracted. Grain buyers and producers who already use good business practices will be ahead of those who do not.

How does it affect buyers who are on the border of Oklahoma, New Mexico, Arkansas and Louisiana? Keeping people from going and selling across the border.

The board and grain buyers must educate producers that it is in their own best interest to sell to a grain buyer who is protected by the fund. The practical reason why producers will not change grain buyers, specifically to out of state buyers, is the cost per bushel is very small. On $5 per bushel corn, the assessment is 1 cent or about enough to take a loaded truck another 2 miles down the road. There is a very real limit on the financial incentive to deliver grain to an alternative buyer across the state line. Grain buyers should ask themselves if their customers will move their business to a competitor for what is currently less than a cent per bushel (.002X$3.30/ bushel corn). Given the small assessment it is not practical for a producer to switch grain buyers or transport the grain any additional distance.

Is there an appeals process if a claim is denied? If there is any litigation regarding an appeal, who pays for the costs of the litigation?

If a claim is denied the producer can appeal to TDA for an administrative review. The initial review will be by TDA General Counsel. If the producer is not satisfied with the TDA General Counsel review an appeal to the TDA Commissioner for a second review can be made. In most instances it is very likely a producer will not need legal counsel to seek these reviews. The next step in the appeals process is controlled by Section 2001 of the Government Code. Under this section an agency decision can be appealed to an Administrative Law Judge in the State Office of Administrative Hearings. A judicial review or a court case and subsequent appeals process are the final steps in the appeals process. The matter of paying for legal representation in this process is governed by state law.