

RELEASE: Syndicates and Victorian Greyhound Racing Integrity Council: proposed Local Rule changes: consultation Nov/Dec 2018

GOTBA Vic has today made submissions to GRV on its proposed local rule changes concerning syndications and other matters. The submission is available on our website at <https://gotbavictoria.wildapricot.org/>

Participants who have read our previous submissions on rule change proposals would be under no illusions that we openly criticise rule proposals that we think are flawed.

This is not the case here. **While we do have important comments (see our submission), GOTBA Vic supports the tenor of the proposed rule changes as to syndications.**¹

As we say further below, nothing in GRV's proposed syndication rule amendments themselves (at least on their face) affects whether any current or future syndicate manager or promoter is required to take action under other laws (ie other than with GRV) to obtain registration or licences.

On the syndication local rule changes, our support is conditional on the syndicate registration process, particularly for 'Public Syndicates', not operating in practice in a manner that is unduly technical, time-consuming or that would cause GRV to quasi-regulate for areas outside its jurisdiction.² However, we have no present reason to think it will operate in that way.

The basic reasons for our support for the syndication rule changes:

1. **(Syndication is critical)** Syndication is a critical entry point for the public to experience and engage with our sport. It is both an opportunity and a vulnerability. The rules of greyhound racing must facilitate syndications including, where possible, by alleviating some of the regulatory burden imposed by the rules of greyhound racing as they might otherwise apply to syndicate members as owners. These local rule changes have the potential, fairly administered, to do that. Other things outside these rule changes, such as significant prizemoney increases using money that ought be available to GRV, also support syndications and should be progressed urgently.³

¹ GOTBA Vic does not support the proposed exclusion of liability of GRV and Clubs for the conduct of satisfactory trials, proposed new LR 38.3. See further below.

² The proposed local rules contain more discretion or power than we are comfortable with to seek or obtain further material, further declarations or to just refuse to grant or impose conditions on registrations— see LR 13.2.3 to 13.2.5. We would have a significant issue if these were to be used to impose unstated requirements for successful registration or to refuse registrations for reasons unstated.

³ See our November 2018 report analysing GRV expenditure and participant returns - <https://gotbav.org.au/resources/Documents/GOTBA%20Vic's%20GRV%20Annual%20Report%20Analysis.pdf>

2. (**'Public Syndicate' category**) The new 'Public Syndicate' registration category (the 'Private Syndicate' category is in effect the same as currently exists) appears very useful.⁴ On the face of the proposed rules, the 'Public Syndicate' registration need not just be used for syndicates open to the wider public, or even those with more than 20 members, but could be used for smaller private syndicates too.

Indeed, on the proposed local rules as drafted, GOTBA Vic tends to think that 'Public Syndicates' should be the preferred method of syndicate registration going forward for all but the very smallest, family-held group ownership arrangements.

While proposed LR 13.2.2 imposes an upfront burden of ensuring that a written syndicate agreement is entered into and that individual syndicate members have accepted its terms, been provided with a copy of the rules and are not currently disqualified etc, those 'Public Syndicate' members (unlike 'Private Syndicate' members) do not have to be registered with GRV as owners. That is, the very frustrating circumstance of a greyhound being scratched at the last minute because of the (unknown) lapse of a single syndicate member's ownership registration would be a thing of the past.

3. (**No change to managed investment scheme obligations (if any) applying to syndicates**)

Not all greyhound racing syndicates are managed investment schemes, nor are all promoters of them required to have or operate under an Australian Financial Services Licence (**AFSL**).

On the face of the proposed new syndication local rules **nothing changes** in terms of whether any particular syndicator/promoter (often a syndicate manager) was or is in future required to obtain or work under an Australian Financial Services Licence, prepare formal disclosure material or register a syndicate as a managed investment scheme with the Australian Securities and Investments Commission (**ASIC**), in order to promote or operate that syndicate. Nothing on the face of the local rule changes indicates any different approach to such licensing or registration by GRV.

In particular, the mere fact of registering a syndicate with GRV under the proposed rules (whether as a 'Private Syndicate' or even as a 'Public Syndicate' in certain circumstances) **does not** of itself create an obligation to have, or have access to, an AFSL or an obligation to register a syndicate with ASIC.

Whether or not licensing or ASIC registrations were or are necessary for any particular promoter or syndicate remains a matter for the promoter or syndicate. Participants who regularly run or promote syndicates need to be particularly careful and investigate their obligations.

⁴ For reasons expressed in our submission, GOTBA Vic believes there should not be a cap of 50 members for 'Public Syndicates'. It is very possible that public syndicates – an example being a syndicate with members of football clubs involved – are (and will in future be) significantly larger.

GOTBA Vic notes that:

- a. unlike horse racing syndicates, greyhound racing syndicate promoters and syndicates presently have no relief from ordinary managed investment scheme requirements that *might* apply. A form of relief, contemplated from at least 2013 and whose form was even published by ASIC in 2015, never in fact became operative; and
- b. significant work is still being conducted by GRV and other regulatory bodies to obtain relief along similar lines to that applying to horse racing syndicates, but that will, in full fairness, take time.

GOTBA Vic appreciates that the proposed rule changes regarding syndication may be concerning or intimidating to some of our members and participants more generally. Provided however that they are fairly administered without GRV unduly overreaching into matters outside its jurisdiction, GOTBA Vic thinks the proposed syndication rule changes can be beneficial to the sport and to future participants.

Syndications and the ‘National Greyhound Draft’

GOTBA Vic understands that certain syndicate managers are also concerned that syndication interests associated with a greyhound racing club are now active in public syndications.

Whether or not this activity caused these rule changes to be proposed – which we do not know – does not change our view on the wider usefulness of those syndication local rule changes here.

Further, GOTBA Vic has also had concerns raised with it by members regarding the promotion by GRV of the ‘National Greyhound Draft’ event that promotes the syndication activities of ‘Greyhound Syndicating Services’, and whether that is an appropriate use of regulatory resources by GRV.

On balance, we think it is, as we understand it. One of GRV’s statutory duties is to promote the sport of greyhound racing. Provided that the promotion of the National Greyhound Draft concept is balanced, does not excessively apply public resources, and does not unduly promote one individual provider of greyhound syndication (even if the name itself is mentioned)⁵, promotion of the concept serves a wider purpose directed to publicising the sport and bringing people into the industry. That benefits the wider sport.

Other proposed rule changes – LR 38.3 exclusion of GRV and Club liability in respect of Satisfactory Trials

GOTBA Vic does not support GRV’s proposal to exclude its own and Club liability for loss or damage arising from the conduct of Satisfactory Trials. Particularly in respect of Clubs, the proposal is inappropriate. Please see our submission for why that is so.

⁵ For avoidance of doubt, one of GOTBA Vic’s committee members is associated with ‘Greyhound Syndicating Services’. That person has had no decision-making input into the GOTBA Vic’s position on this matter.

GOTBA Vic Committee

10 December 2018



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