

15 January 2009

Manager, Superannuation Statistics
Australian Prudential Regulation Authority
GPO Box 9836
Sydney NSW 2001

By email: superstats@apra.gov.au

Dear Sir

**Submission in response to APRA Discussion Paper:
Fund level disclosure from APRA superannuation statistics
collections**

I refer to the above discussion paper and thank APRA for the opportunity to comment on the proposals to publish fund performance data.

As you may be aware, UniSuper is the dedicated superannuation fund for employees in Australia's higher education and research sector. The fund has more than 435,000 members and \$24 billion in assets (as at 30 June 2008), making it one of Australia's largest superannuation funds.

UniSuper is an advocate of measures that improve transparency, consistency and fair comparisons between superannuation funds and, accordingly, we welcome the opportunity to contribute to APRA's policy development in this important area.

Our main comment in response to the discussion paper is that, while steps to improve the transparency of investment performance information to super fund members are strongly supported, APRA will need to be very vigilant to ensure that information is not published or used in a manner that could potentially lead to unfair comparisons between funds on the basis of inconsistent or selectively prepared information.

In this regard, UniSuper's view is that there are various details that would need to be settled and prescribed prior to implementing the proposals. Those details would concern matters such as the basis on which returns are calculated and published and the manner in which APRA's findings can be utilised by participants in the sector.

UniSuper's comments are set out below, comprising:

- Section 1 - Specific responses to the questions posed by APRA in its discussion paper; and
- Section 2 - General comments in relation to the proposals.

1. Specific responses to APRA questions

Question 1: Which data items and calculations should be included in the comprehensive reference table? How should these items be presented?
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Basis for measuring performance: whole-of-fund versus option returns

As a general proposition, UniSuper considers that a fund's performance should be assessed based on the returns actually credited to real members, rather than hypothetical or notional returns that reflect some form of aggregation of all of the different products or investment options provided by the fund in question.

Alternatively put, the performance data should reveal the different rates of return that could have been achieved in practice if a member had exercised their right to transfer to another fund during the relevant reporting period.

If these propositions are accepted, it follows that the performance of superannuation funds should be assessed (or ranked) based on the rates of returns for particular investment options, rather than on the basis of a blended rate of return that reflects the overall investment performance of the fund as a whole but which was not actually credited to any real members.

This then raises the question of whether the performance of superannuation funds should be assessed (or ranked) on the basis of the performance of:

- The balanced option;
- The default option (if other than the balanced option);
- The option applicable to the largest number of members;
- The option with the highest level of funds under management; or
- Some other investment option offered by the fund.

UniSuper considers that funds should be compared on a consistent basis and that all funds should therefore be ranked with regard to investment options with comparable investment strategies. We believe that the balanced option would appear to be the most suitable candidate for this purpose.

Assessing (or ranking) superannuation funds based on the performance of their balanced options would also be consistent with the requirement under the Corporations Act for Product Disclosure Statements to include worked examples of the fees applicable to the balanced option.

To ensure consistency, however, we believe it is critical that APRA define what constitutes a balanced option with regard to the split between growth and defensive assets. The Government has taken this approach in the Product Disclosure Statement context referred to above. The relevant regulations stipulate that, for the purposes of preparing a worked example of fees for a Product Disclosure Statement, the balanced option is the option offered by a fund that has a 70 / 30 split between growth and defensive assets (or the option with a growth / defensive split that is closest to a 70 / 30 split).

This is necessary because, notwithstanding regulatory measures such as the dollar disclosure requirements under the Corporations Act, some superannuation funds still have named options with growth / defensive splits

other than 70/30 represented as being their “balanced” options. For example, some superannuation funds have options with a 50 / 50 split between growth and defensive assets labelled in this way.

To address this anomaly, UniSuper suggests that APRA should adopt a definition for determining what constitutes a balanced option that is similar to the definition in the Corporations Regulations. However, we also contend that, for comparative performance reporting purposes, APRA should also take one further step and prescribe definitions for determining what constitutes “growth” and “defensive” assets within the balanced fund definition.

This is because some superannuation funds are known to include assets that are typically regarded as “growth” assets (such as property) in their allocation to the “defensive” category, which is at odds with the more commonly understood classification that prevails across the industry as a whole. In normal market circumstances (and in longer-terms surveys even where negative returns are being experienced in growth asset markets generally, such as at present), this gives those superannuation funds an unfair advantage when reporting the performance of their balanced option because their balanced option includes a more substantial allocation to genuinely growth assets than the other balanced options that participate in the same survey. It also leads to a pervasive problem of individual market participants being tempted to ‘cherry-pick’ the most convenient definitions to suit their marketing purposes, with overall detriment to consumers’ confidence in the veracity and reliability of the information being presented.

Consequently, UniSuper strongly contends that standardised definitions for determining what constitutes a balanced option and what constitutes growth and defensive assets would ensure consistency and would reduce the risk of members being misled.

If APRA were to take this approach, but a fund did not have an option that met the APRA definition and instead reported on the option that came closest to doing so (as required by the Corporations Regulations in the Product Disclosure Statement context), it would be important to ensure that the APRA performance publication disclosed the growth / defensive allocation of that option (as noted below).

That said, we recognise that APRA may not currently have access to option-specific investment returns. If, on account of this information shortfall, APRA were to proceed to publish performance on a whole-of-fund basis, it would be important to ensure that users of the data understand that no actual member actually experienced the returns published in the data. In this regard, by way of analogy, we note that ASIC has historically opposed the use of notional or synthetic returns in the context of promoting financial products.

Calculation methodology

Subject to our comments above that returns should be published for particular investment options, UniSuper supports the publication of average return data, provided the average is a geometric mean. Arithmetic mean data should not be published for these purposes.

UniSuper generally supports the publication of volatility and Sharpe ratio data using the formulas set out in Attachment 1 to APRA's discussion paper. However, it should be noted that volatility and Sharpe ratio calculations based on only five years of annual data are not particularly reliable.

Explanations for outliers

There may appear to be merit in allowing funds to include an explanation of outlier performance for inclusion in the APRA tables. However, in practice, it is likely that funds would seek to explain exceptionally poor performance but would not be incentivised to qualify exceptionally strong performance figures (for example, by disclosing that they include what would typically be regarded as growth assets in their allocation to defensive assets).

One option might be to allow third parties to provide comments with regard to outlier performance by other funds. However, such an approach would probably be problematic and raise verification issues.

UniSuper submits that it would be better to avoid a situation in which low-ranking funds all provide self-serving explanations for their performance while the high-ranking funds leave members to believe that their performance was not out of the ordinary – that kind of situation would create opportunities for members to be systematically misled with regard to the regularity / irregularity of the performance data for particular funds.

Use of audited figures

There is merit in using annual audited figures when preparing the reference tables. However, this could mean that the data would only be available substantially after the reporting period in question and therefore only useful for longer-term analysis. This would obviously compromise the relevance of the information from a general consumer perspective.

Details of strategic asset allocations

The reference tables should disclose the strategic asset allocation for each option included in the tables, from the point of view of ensuring transparency and comparability of the options offered by different superannuation funds.

For the same reason, information regarding the structure of non-standard asset classes would ideally also be published in the tables.

Aggregating small APRA funds and single member funds

UniSuper agrees with the suggestion that data in relation to small APRA funds be aggregated at the trustee level, provided that APRA reports dispersion data as well as averages.

Five-year performance data

UniSuper agrees that the reference tables should include 5-year data averages (based on geometric mean rather than arithmetic mean data). This would divert the focus away from short-term performance.

Publication of minimum returns and risk information

It is essential that some risk measures be available for each fund.

UniSuper therefore agrees that APRA should publish each fund's minimum return over the preceding 5-year period. However, it should be noted that this is unlikely to reveal accurately the prospective risks of a low return for the majority of funds, especially where (but not only where) the relevant investment strategy has a performance history of less than 5 years.

Data format and presentation

UniSuper would suggest that the data be provided in numeric, machine-readable format (for example, in an electronic spreadsheet) so that trustees and researchers can manipulate the data for the purposes of preparing their own compilations.

Performance after fees and taxes

Funds should be rated on the basis of their performance after fees and after fund taxes, as proposed by APRA in its discussion paper. If APRA were inclined to publish performance with regard to actual or specific investment options, as we have suggested, the calculation methodology should ensure that all fees and fund taxes are taken into account. By way of contrast, a methodology that calculated performance with regard to the percentage change in unit price during the performance period would overlook dollar / account-based fees that are not rolled-up in the unit price.

Question 2: Should APRA publish compilation tables in addition to the reference table?

Yes.

Question 3: If APRA publishes compilation tables, what should be included in the compilations?

Classifications and groupings for compilation purposes

UniSuper does not consider the traditional classification categories (for example, corporate, public sector, industry and retail funds) to be particularly relevant for the purposes of comparing performance.

There is no particular reason why the performance of an industry fund should not be compared directly against the performance of a retail fund and vice versa.

Indeed, it is not always relevant for a member of one industry fund to compare the returns of their fund against another industry fund. This is because industry funds are often mutually exclusive with regard to the types of employees who can become members. From the point of view of a member, there is little merit in comparing the performance of their fund to the performance of another fund that they are ineligible to join. That said, transfers between industry funds can

occur, especially where two industry funds cover the same industry and where an industry fund has become a public offer fund.

The point is that a member of an industry fund has an interest in knowing how their fund has performed compared to other retail funds and industry funds that they could have joined.

For similar reasons, there is little reason why corporate funds should only be compared against other corporate funds or why retail funds should only be compared against other retail funds, especially since almost all Australian employees are eligible to join at least one industry fund.

The lines between the traditional categories are also becoming increasingly blurred to the extent that some industry funds and corporate funds are converting to public offer fund status.

For these reasons, UniSuper would suggest that all funds be compared against one another, consistent with the contestability of the modern market.

Presentation of compilation tables

Data could be published electronically (in a data analysis accessible form) for the full set of registered funds, possibly excluding small APRA funds and single person funds but including eligible rollover funds.

However, printed publications could focus on larger funds, whether they are industry funds, public offer funds or corporate funds.

We note that focusing only on public offer funds would significantly distort the presentation of the industry.

2. General comments on the proposals

Use of APRA data by funds and other third parties

As noted in the discussion paper, the APRA reference and compilation tables would be regarded as “official” sources of information. As such, any rankings attributed by APRA are likely to be viewed as being especially authoritative by members and could therefore be used by funds and other third parties for collateral purposes.

For example, funds that rate well could conceivably use their APRA ranking for marketing purposes – whether for direct marketing to members or, in the retail context, in marketing funds to financial planners. If this were to occur, the reference to the APRA ranking could have an unduly probative effect in so far as it may drive members to make long-term investment decisions solely on the basis of historical performance data without regard to other factors typically taken into account in broader industry surveys and rankings.

There is also a real risk that performance could significantly change between the end of the period over which performance was calculated and the date on which APRA publishes its tables. Where this occurs, members could be misled to the extent that they rely on outdated APRA performance data as the official and definitive source of performance information.

We would therefore suggest that APRA should regulate the manner in which its rankings can be utilised for collateral purposes by superannuation funds and other participants in the sector. Collateral use of the APRA rankings should either be precluded altogether or, alternatively, particular disclosures should be mandated when citing an APRA ranking. For example, the following disclosures could be mandated:

- APRA does not endorse or recommend the product;
- In making investment decisions, considerations other than past performance should also be taken into account;
- The performance ranking does not relate to every investment option offered by the fund and members should consider the performance of their chosen investment option carefully;
- The performance ranking is not necessarily based on a period reflecting the member's investment horizon; and
- Past performance is not an indication of future performance.

In addition, if the reference and compilation tables were to be prepared on the basis of whole-of-fund performance (as opposed to the performance of particular investment options), it would be important to ensure that members understand that no actual members actually experienced the published returns. In this regard, by way of analogy, we note that ASIC has historically opposed the use of notional or synthetic returns for promotional purposes.

We trust APRA will find the above comments constructive and useful. In addition, we would be pleased to assist APRA in its future deliberations on this matter and can provide useful insights on the definition of what constitutes growth and defensive assets if you require. In this regard, we encourage you to contact David St. John, Chief Investment Officer on +61 3 9910 6158 and Luke Barrett, Head of Investment Law & Compliance on +61 3 9910 6145.

Yours sincerely

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Chief Executive Officer