

2 October 2017

Mr Alan Raine
Acting Secretary
Senate Standing Committees on Economics
PO Box 6100
Parliament House
Canberra ACT 2600
economics.sen@aph.gov.au

Dear Mr Raine

Thank you for the opportunity to comment on the Treasury Laws Amendment (Improving Accountability and Member Outcomes in Superannuation Measures No. 2) Bill 2017.

UniSuper has previously commented on the draft legislation to extend Choice of Fund to those covered by EBAs and certain workplace agreements. We have also written to the Secretary of the Treasury expressing our concerns. Our main concern with extending Choice is the effect that this could have on UniSuper's *open* defined benefit scheme. We do not believe that this bill has addressed these concerns. However, a relatively minor change could address this concern. In short, we suggest that new employees who would otherwise be enrolled in an open defined benefit fund should not be able to choose a different superannuation fund, in the same way that an existing defined benefit member cannot later choose a different superannuation fund.

By way of background, UniSuper is the superannuation fund dedicated to employees in the tertiary and higher education sector. Almost all non-casual employees in that sector are enrolled in our open defined benefit fund upon joining the sector and enjoy contributions made at rates which significantly exceed the Superannuation Guarantee rate. These factors, coupled with the fact that UniSuper is one of the only – if not the only – open, private sector defined benefit funds, mean that UniSuper could be impacted in a way in which very few other funds would be affected. The change that we are requesting would avoid detrimental impacts for UniSuper members and the security of their retirement savings, but would have relatively little effect on the number of Australians who stand to benefit from Choice of Fund under the proposed reforms.

In collectively-pooled arrangements, such as defined benefit schemes, the decisions of *some* members can have an effect on *many* members. By their

Fund: UniSuper
ABN 91 385 943 850

Trustee: UniSuper Limited
ABN 54 006 027 121

Administrator
UniSuper Management Pty Ltd
ABN 91 006 961 799
Australian Financial Services
Licence No. 235907

Helpline
1800 331 685

Head Office
Level 1, 385 Bourke Street
Melbourne VIC 3000
Facsimile 03 8831 6141
unisuper.com.au

very nature, defined benefit schemes are subject to adverse selection risks and have rules in place that, once a member has made a decision to remain in the defined benefit scheme, employers are then bound to fund that member's benefit for the duration of that member's employment.

The current exemption in law that restricts Choice for *existing* defined benefit members recognises these risks. However, given the other changes which are being proposed, it is now appropriate for the exemption to also apply to *newly eligible* defined benefit members. In simple terms, the current exemption applies to people who are already members of a defined benefit fund, but does not apply to people – say, new employees – who have not yet become a member of a defined benefit fund. The current exemption has been sufficient until now because other exemptions (which are now proposed to be repealed) have meant that new employees in the university sector could continue to be enrolled as a member of UniSuper's defined benefit fund by default.

Changes to the flow of new members to a defined benefit scheme, particularly changes to the age and career earnings profile of new members, can have flow-on consequences. UniSuper has neither a government (or employer) guarantee nor recourse to additional employer contributions so the risk associated with these potential changes ultimately would be borne by existing members.

As alluded to above, UniSuper members enjoy rates of contribution which significantly exceed the Superannuation Guarantee rate. These rates of contribution are required to fund the generous defined benefits enjoyed by our members. Some employees in the sector may in future wish to reduce their superannuation contributions to a level commensurate with the Superannuation Guarantee rate. Choosing a fund other than UniSuper may be viewed as a means of contributing a lesser amount into superannuation each year (thereby increasing take-home pay). This factor has the potential to distort the decision as to which superannuation fund a person wishes to join. If this were to occur, and if significant numbers of new employees were to select against the fund (whether to reduce their superannuation contributions or otherwise), this would reduce the flow of funds into the defined benefit fund and could change the profile of new members joining the defined benefit fund in a way which could adversely affect the its funding levels which secure the retirement savings of all members.

The exemption we seek would have narrow application, covering approximately 15,000 to 20,000 new employees who join the higher education sector each year.

Transition to Choice


We have also previously highlighted an issue with the transition to the new rules. We are concerned that the transition rules will lead to complications and confusion for employers, employees, members and super funds. Currently, roughly 50 EBAs cover the higher education sector and they expire at different dates. These agreements, under the *Fair Work Act 2009*, will continue to operate after their nominal expiry date until they are replaced or terminated by application to the Fair Work Commission.

EBAs in the higher education sector typically have a duration of three or four years. Some EBAs take significant time to negotiate. Consequently, Choice within the higher education sector could come into effect in a staggered manner over a number of years. Whilst it would notionally start on 1 July 2018, the full effects would not likely be seen for number of years, potentially as late as 2021 or 2022. While this might be manageable for a single employer with one (or possibly two) EBAs, it becomes more complex with multiple employers.

We suggest consideration of an alternative transition plan for multi-employer schemes to ensure that employees and employers in the relevant sector continue to have consistent superannuation arrangements. This could be done by a uniform transition date linked to the finalising of all new agreements across the relevant sector after 1 July 2018. This would ensure that all employees and all employers know exactly when Choice will take effect. Under the current proposals, this is completely unknown.

Thank you for the opportunity to provide comments on this Bill. Should you wish to discuss these comments, I can be contacted on 03 8831 6102.

Yours faithfully



Kevin O'Sullivan
Chief Executive Officer