UniSuper

Protecting Your Super package

Submission by UniSuper

29 May 2018

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About UniSuper

UniSuper is the superannuation fund dedicated to people working in Australia's higher education and research sector. With approximately 400,000 members and around $66 billion in assets under management, UniSuper is one of Australia's largest superannuation funds and has one of the very few open defined benefit schemes.

UniSuper Management Pty Ltd would welcome the opportunity to discuss the submission further and to provide additional information in respect of the comments made in this submission. Should you have further queries, please contact Benedict Davies on 61 3 8831 6670 or benedict.davies@unisuper.com.au

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Protecting Your Super package

UniSuper supports the broad thrust of the Protecting Your Super package. On each of the three measures, we have, for some time, been actively pursuing policies to protect small balances from erosion by fees and insurance premiums.

For example, currently we transfer approximately 5,000-6,000 inactive accounts with balances below $1,500 to an eligible rollover fund every six months. We do that because the fee arrangements at that scheme are specifically designed for low balances. We are also a supporter of the Insurance and Superannuation Working Group and the Insurance in Superannuation Voluntary Code of Practice. Once implemented, we believe the Code will improve insurance products and processes across the super industry and help members better understand their insurance, change insurance arrangements, receive affordable cover, and make timely claims, among other measures. In March this year, UniSuper announced it is working to adopt the Insurance in Superannuation Voluntary Code of Practice and we are currently working on a transition plan.

The following submission, therefore, raises issues that either clarify the application of these policies or highlight a handful of issues unique to defined benefit schemes, particularly members who transition between our defined benefit division and our accumulation division.

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Technical comments on the exposure draft

Fee capping: account balance or product?

The Treasury's consultation webpage refers to a "cap on administration and investment fees charged on super accounts with balances of $6,000 or less"; however, the proposed SIS Act amendments refer to "products" rather than balances. For example in s.99G the cap applies if:

"on a balance test day a member of the fund has an account balance with the fund that *relates to the product* that is less than $6,000." (s.99G(1)(b))

Presumably the reference to "the product" is a reference to a MySuper or Choice product as s.99G(1)(a) refers to both separately. Given that most super funds have both choice and MySuper products (typically a balanced investment option) within the one account, the provision as drafted could be problematic. It could require separate application of the cap to the MySuper and Choice "products".

We suggest it would be much clearer if s.99G(1)(b) read:

"on a balance test day a member of the fund has total account balances with the fund that is less than $6,000".

Fee capping: super balances or pensions?

We also seek clarification about whether these measures are intended to apply to pensions which, in tax law, are separate interests. While having a pension balance below $6,000 is unusual (many super funds have rules requiring a minimum of $25,000 to start an account-based pension), all pensions if they are to be paid out over a person's lifetime will approach a terminal payment and the supporting account balance could easily fall below $6,000. This is particularly troublesome with term-allocated pensions (now largely a legacy product) that cannot be commuted and have to be paid out over a specified term to zero. As there are a variety of pensions, all of which have different consequences for commuting or withdrawing their capital, we suggest carving out pensions from this framework altogether.

Fee capping: fee reductions, discounts or waivers?

We also seek clarification as to whether the new fee capping rules will allow for a pricing structure unique to small balances (e.g. a tailored fee or even a fee waiver) or whether the capped fees will have to be a reduction of a standard fee structure.

This distinction is important because the MySuper charging rules generally apply so that the trustee must charge the same flat fee, same percentage of the account balance, or combination of both, for all members of a MySuper product. While the proposed changes allow for an administration or investment fee to be deducted at a *reduced rate* for a member of a MySuper product, the proposed law is still silent on potential conflicts with other obligations e.g. there is no equivalent carve out from the requirement to attribute costs between classes of beneficial interests fairly and reasonably (SISA s99E) for members charged a reduced fee by reason of the new low balance cap.

We strongly encourage consideration of an additional carve-out under SISA s.99E to eliminate any counter argument.

Changes to default insurance

Insurance for superannuation members

From 1 July 2019, super funds will be required to offer insurance on an opt-in basis in relation to accounts:

- that have balances below $6,000;
- of new members who are under 25 years old; or
- that have not received a contribution for 13 months or longer.

Although defined benefit members are expressly excluded from the above rules, UniSuper has always offered transition cover to members who move out of our Defined Benefit Division (DBD) to our Accumulation 2 option. The decision to move from the DBD has long-term consequences and members making this election cannot re-join the DBD at a later stage and we are concerned that the proposed laws will introduce an additional complication for members making this important decision.

Approximately 12,000 new members join our DBD each year (half of those are already members of our Accumulation 1 option however the other half are completely new members). Those members new to the DBD then have up to 24 months to choose between the DBD and our Accumulation 2 option. Currently, about one in six members make the move from the DBD to our Accumulation 2 option and some of those members have a "crystallised value" of their account balance below $6,000. However, owing to a relatively high rate of employer support (typically 17%) and the frequency of contributions (fortnightly), most of those balances grow quickly. In fact, an overwhelming number of members going from the DBD to Accumulation 2 have account balances in excess of $6,000 and virtually all of those members very quickly accumulate more than $6,000.

We are concerned that, under the proposed rules, we will not be able to offer transition cover to these members because they may technically fall below the $6,000 account balance limit *at the time of transition*. In the absence of a default opt-out, it is likely that those who would opt in would be more likely to also be those who would claim (those with a greater likelihood of poorer health). The end result could be that opt-in insurance could only be commercially obtained with a requirement to underwrite all those who wish to opt-in and the premiums for these members would rise materially.

Given these unique circumstances, we suggest an exemption from the $6,000 minimum be applied to situations where a defined benefit member moves to an accumulation account within the same fund. As an integrity measure, the balance test day concept could be applied to this exemption such that a former DBD member who had less than $6,000 on a balance test day, would then have to make an election to continue receiving the cover. Without such an election the scheme would be required to cancel the insurance.

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Low-balance accounts: account balance or product?

We believe that references to “product” in Schedule 2 could lead to similar problems to those mentioned above (Fee capping: Account balance or product?). For example, s68AAB(1) refers to member a who “has not had an account balance with the fund that relates to the product that was equal to or greater than $6,000”. We believe that it is unclear whether the test means that a member with less than $6,000 in either a MySuper or Choice option would require opt-in insurance. We strongly suggest making reference to account balance only and removing references to “product” because most super funds have both choice and MySuper products (typically a balanced investment option) within the one account.

ATO-led consolidation regime

We support moves to strengthen the ATO-led consolidation into active accounts.. We would, however, suggest some further consideration be given to the 13-month test of inactivity. We are concerned that this period of time is potentially too short, particularly for those on parental leave and sabbaticals.

While the average duration of parental leave is less than 12 months, there are still going to be many people who take longer leave. In some instances, a period of more than 12 months is necessitated by the structure of employment e.g. university terms, calendar years. We suggest giving consideration to allowing members to make a declaration in writing similar to the concept of indicating a desire to defer a benefit and remain a member of the fund under the former Protection of Member Benefits rules (see APRA Superannuation Circular No I.B.1 paragraph 20).

Consolidation: account balance or product?

The use of the word “product” in Schedule 3 also raises potential issues. For example, we note that these requirements apply to contributions to ‘that product’ s68AAA(3), i.e. if a default MySuper member nominates a future contributions strategy of 100% to a Choice product, will they become inactive after 13 months by reason of not making contributions to their MySuper ‘product’?