

9 October 2019

Manager
Financial Services Unit
Financial System Division
The Treasury
Langton Crescent
Parkes ACT 2600
productregulation@treasury.gov.au

Dear Sir or Madam

Thank you for the opportunity to comment on the exposure draft regulations for the design and distribution obligation.

We strongly support regulations to exempt defined benefit interests from the requirement to provide a target market determination under the DDO regime in Part 7.8A of the Corporations Act.

These regulations address an issue identified throughout the earlier consultation process viz: that defined benefit schemes are not products in any conventional sense. In the case of UniSuper's DB scheme, membership is not open to the general public and it is not distributed in the way conventional financial products are i.e. sold through distribution channels. Membership of the DB scheme arises directly as a result being employed in the higher education and research sector. This workplace entitlement, rather than being sold through distribution channels, emanates directly from employment arrangements and the industrial agreements that cover the higher education and research sector.

The proposed regulation also address an inconsistency in the original legislation identified by the Parliamentary Library's Bills Digest which noted that "it is unclear why products such as MySuper will be exempted by the operation of the Bill whilst defined benefit funds will be exempted by regulation."¹

The explanatory statement for the exposure draft regulations notes that:

Offers of defined benefit interests are only available through employer arrangements. As such, it is unlikely that such interests are inappropriately distributed. It is not necessary to apply the DDO in relation to those interests.

¹ Parliament of Australia (2018), Treasury Laws Amendment (Design and Distribution Obligations and Product Intervention Powers) Bill 2018: Bills Digest No 51, 2018-19.

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We agree and offer our strong support for the proposed exemption which now recognises the unique nature of defined benefit schemes and ensures consistency with the already legislated MySuper exemption

Thank you for the opportunity to provide comments on the exposure draft. Should you wish to discuss these comments, in the first instance, please speak to Benedict Davies, Public Policy Manager on 03 8861 6670.

Yours faithfully

A handwritten signature in black ink that reads "Kevin O'Sullivan". The signature is written in a cursive style with a prominent initial 'K' and a long, sweeping underline.

Kevin O'Sullivan
Chief Executive Officer