



28 September 2006

Committee Secretary  
Parliamentary Joint Committee on Corporations and Financial Services  
Department of the Senate  
PO Box 6100  
Parliament House  
Canberra ACT 2600  
Australia

By email: corporations.joint@aph.gov.au

Dear Mr Sullivan

### **UniSuper Response to Inquiry**

UniSuper Management Pty Ltd is pleased to present the following submission in response to the Joint Committee's Inquiry dated 30 June 2006.

UniSuper Management (USM) is the dedicated fund administrator for UniSuper Limited (USL), the industry superannuation fund for Australia's higher education and research sector. USL is one of Australia's largest superannuation funds, with approximately 360,000 members and \$19.3 billion of assets under management as at 30 June 2006. USL provides, and USM administers, a combination of defined benefit and accumulation-style superannuation products for its members during their working lives, as well as a full suite of indexed, allocated and term allocated pension products for retired members.

USM is also actively involved in the delivery of financial education and advice to the Fund's membership through a variety of mediums including personal consultations, print communications, group seminars and the Internet, and is the holder of Australian Financial Services Licence No. 235907 issued on 1 January 2004.

This submission does not address all the terms of reference of the inquiry. After careful consideration, USM has decided only to address in detail Item 4 of the Terms of Reference, '*The role of advice in superannuation*' in this submission. USM believes that this issue is amongst the most important of all of issues confronting the superannuation industry at the present time, and is an area where focused attention from policymakers and regulators can make a real difference to the achievement of improved outcomes for Australian consumers.

Should you require any further information concerning our submission please do not hesitate to contact me.

Yours sincerely

Ann Byrne  
Managing Director  
UniSuper Management Pty Ltd

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***Parliamentary Joint Committee on Corporations and Financial Services  
Inquiry into the Structure and Operations of the Superannuation Industry***

***Submission from UniSuper in Relation to Item 4 of Terms of Reference:***

***“THE ROLE OF ADVICE IN SUPERANNUATION”***

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***Introduction***

UniSuper believes that the responsible facilitation and regulation of advice to superannuation fund members is vital to achieving greater financial literacy, transparency and member self-determination.

The Australian public is served by a well-established financial planning industry providing advice across all financial products including superannuation. That advice can be critical to the successful achievement of superannuation members' savings and retirement objectives.

However, when delivered through conventional financial planning intermediaries, it is typically a very costly service, effectively disenfranchising low to medium income and younger Australians from access to advice. Recent experience has also demonstrated a significant lack of transparency and clarity around issues of sales commissions, the basis for product recommendations and the independence of the advice that is provided by some major financial planning providers.

Among the factors contributing to this current state of affairs is the relatively low level of financial literacy among Australians generally, leading to lack of knowledge of, and confidence in, managing personal financial affairs. This in turn leads to an excessive dependency upon expert personal advice for even relatively basic planning needs.

The Government's recent policy initiatives in the area of financial literacy and simplification of the superannuation framework are to be commended, but will not be sufficient on their own, in our view, to fully address this knowledge gap.

Another impediment, in our submission, is the narrow and rigid interpretation of the advice-related elements of the Financial Services Reform Act by the regulator, ASIC, and the restrictions this has placed – perhaps unintentionally - on the ability of superannuation funds such as UniSuper to deliver meaningful and practical financial education and advice to their members. This is the major issue we would like to bring to the Committee's attention in our submission.

***Market Evolution and the Role of Superannuation Funds***

It is well understood that financial markets and products have become more complex and that individuals, whether during their accumulation or drawdown phase, are more directly exposed to investment market risks and opportunities than has ever been the case previously.

The expanded range of products and retirement options available today reflects the evolution of retirement incomes policy globally and the continuing trend away from an annuity-funded retirement to one reflected by self-determination at various levels.

However, self determination, whether through individual choice of fund or investment choice for contributing members or self-management of income streams for retired members under the imminent superannuation reforms, must be accompanied by *informed* choice if it is to be successful in achieving its social policy objectives of self-sufficiency and reduced welfare dependency in retirement.

Corporate and industry superannuation funds have traditionally provided guidance, education and basic financial advice to members as either a free or relatively low cost service. The funds are well placed to provide basic and fundamental guidance and low-scale advice to members about such issues as choice of investment strategy, selection between different scheme types, appropriate levels of insurance cover, risk-profiling, contribution strategies and other superannuation-specific information.

This is not the type of assistance and advice that a member typically seeks or wishes to pay for from a financial planner, and nor do traditional financial planning providers offer these services in any scalable, mass distribution form that can be accessed by ordinary super fund members. The members seek education about their options, about the nature of risk and volatility and the time effect of money. They express a desire to become better informed about financial markets and superannuation's role in retirement planning.

### ***The Definition of 'Personal Advice'***

The educational services outlined above are in keeping with the government's agendas about self-determination and financial literacy. Yet in practice, our experience is that many trustees' attempts to make genuine progress in this area are being stymied because of the wide interpretation given to the definition of 'personal advice' by the regulator, ASIC.

In essence, that interpretation triggers the full 'Statement of Advice' provisions for any interaction with a fund member that has (or "ought to have had"), regard to *any* information that is particular to the individual member (such as their salary, age or account balance). This is the case even if the context of the interaction is only to provide some kind of projection or scenario relating to their future benefits, and not to elicit a specific product purchase or other transaction to the benefit of the fund providing the educational service or tool that is being utilised.

While UniSuper supports the requirement for any person giving personal advice to a superannuation fund member to possess an AFS Licence and provide an accurate and informative written statement of that advice, it believes those licensing requirements should be sufficiently flexible to reflect the range of information sought and needed by consumers and the different methods by which consumers seek that information.

Specifically, the law and its interpretation by ASIC should recognise that it is often difficult to meaningfully illustrate the workings of a product, option, strategy, and concepts such as risk and volatility for a member without reference to that member's personal circumstances or details. It needs to be acknowledged that simple reference to a single personal detail of a member does not mean that the interaction constitutes the provision of advice.

As UniSuper sees it, the law currently does not appropriately distinguish between information, education and advice. It does not allow for a graduated system of information that allows an individual to assess possible pathways to financial security in retirement by "playing with the figures" for themselves, without triggering a raft of additional costs, accountabilities and compliance risks for the fund, whose intent is to genuinely educate and inform the member rather than seeking to elicit a sale or switching transaction.

In these circumstances, the law practically requires a Trustee or employer to obtain an AFS Licence because even with the greatest of care, it is very difficult to avoid the subjective element in ASIC's tests for when a member's personal circumstances and financial needs "ought" to have been taken into account.

### ***The Opportunities for Technological Innovation***

The wide availability of modern communication technology such as the Internet now enables members to access tools necessary to make productive decisions about their retirement without the need to engage costly forms of intermediation such as face-to-face counselling.

Financial planning in its traditional form has, and will continue to have, an important role to play for complex planning needs. Yet many of the practical decisions and opportunities that confront superannuation fund members do lend themselves to being reduced to interactive tools which can be delivered at low cost by responsible providers to members who prefer to make their own decisions (with appropriate *caveat emptor* warnings) and/or who cannot afford to access conventional financial planning services. These decisions include such matters as selection of a suitable investment strategy, decisions about quantum of contributions, participation in facilities such as co-contributions or spouse contribution splitting, setting target retirement dates, and estimation of likely income needs in retirement.

Moreover, at the broader member education and financial literacy level, technological tools such as e-learning have a real role to play in instilling a deeper understanding of the fundamentals of investment markets and personal planning needs, independently of their relationship to a particular product or category of products (whether superannuation or otherwise).

UniSuper desires to continually improve the cost-effectiveness, relevance and targeting of service delivery to our members, utilising the opportunities afforded by new technology and communication channels wherever possible. The high degree of internet access and technology-literacy within our membership base, coupled with a very broad spectrum of financial and investment literacy, spanning the full range from novice to highly expert and wide geographic distribution of our member base strongly suggests that computer-based learning and development of interactive online tools should be a standard medium for education and information used by UniSuper, and no doubt by other superannuation providers as well.

These issues were explored in some detail in a Discussion Paper issued by ASIC in August 2005 relating to the regulatory approach to be adopted for Online Calculators. In this Paper, ASIC initially appeared to admit the possibility that a given online calculator may be considered 'simply an educational tool'. However, this distinction is not reflected in the actual regulatory approach that has since been adopted for product-specific calculators, including the requirements to hold an AFS licence and observe the suitability of advice provisions.

## **Summary and Conclusion**

In conclusion, UniSuper submits that that the Corporations Law and/or ASIC policy should be amended such that employers and superannuation funds would, without regulatory impediment, be able to:

- a) Provide their staff or members with basic information and education about superannuation in general and about their specific product through a range of media including on-line calculators, without needing more than a general form of AFS Licence to do so; and
- b) Take into account personal information provided to them by the member without this triggering the need to provide a fully considered statement of personal advice.

In these circumstances, UniSuper considers that it should be made explicit to the employee or member via a suitable disclosure device that no personal advice will be given in that interaction.

The more general form of licence contemplated by UniSuper in this submission should be restricted to product issuers and employers. The advice given should be limited to own product, in the case of issuers, or to the basic features of the default fund selected by the employer, and to the features of superannuation in general.

UniSuper does not believe that this would create an unfair advantage for issuing funds over specialist financial planning entities. The nature of advice sought by employees or members is not likely to be sought in a fee-paying and/or product-acquisition context from a licensed adviser.

UniSuper believes that the introduction of this or similar flexibility is in step with federal government initiatives to increase financial literacy within the community. Online educational tools will become, we believe, an increasingly important mechanism to pre-qualify consumers for a professional advice interaction, and to thereby escalate them out of the self-help environment at stages of their lives when they have the capacity to meaningfully influence their retirement savings outcomes.

In this context, UniSuper believes that an appropriate and facilitative regulatory structure can contribute to both a more informed consumer base and greater productivity and focus in conventional financial planning interactions.

For members to be properly equipped for self-determination in their retirement planning, greater flexibility must be granted to product issuers and employers to provide information and education to members. They should be given latitude to develop educational programs and a wide range of teaching aids and tools, such as robust on-line calculators, with which members can enquire and self-assess their options.

More informed and financially literate members will be less susceptible to accepting advice that is conflicted, or lacking transparency. Rather than being seen as a threat to the existing financial planning industry, the regulatory flexibility envisaged should work to stimulate greater and more efficient use of the mainstream financial planning industry.