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Social impact investing

Submission by UniSuper

24 February 2017

# About UniSuper

UniSuper[[1]](#footnote-1) is the superannuation fund dedicated to people working in Australia's higher education and research sector. With approximately 400,000 members and around $55 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   
(03) 8831 6670 or [benedict.davies@unisuper.com.au](mailto:benedict.davies@unisuper.com.au)

# Comments on the discussion paper

**Consultation question 23**

**What guidance in particular would provide a desired level of clarity on the fiduciary duty of superannuation trustees on impact investing?**

Impact investing has traditionally been the domain of governments, sovereign wealth funds, philanthropic funds and NGOs. In theory, superannuation funds could also make social impact investments provided that they were consistent with their fiduciary responsibilities to act in their members' best interest.

The fiduciary duty under which superannuation funds operate is a wide-ranging duty that influences all decisions made by trustees; in fact, acting with regard to the best interests of members is prime arbiter for all decisions (investment or otherwise). This is backed by the long-established principles of trust law, strengthened with statutory obligations. The governing rules of all superannuation entities include the deemed covenants codified under SISA section 52; that includes the duty “to perform the trustee’s duties and exercise the trustee’s power in the best interests of members”. Further, the investment covenants under subsection six include requirements to give effect to an investment strategy; to consider investment risks; liquidity and to have adequate diversification.

Given these duties, we question how easy it will be for trustees to fit social impact investments into their investment strategies and portfolios, particularly in situations where a social impact investment has a positive social outcome but fails to have a commercial return or does not fit easily into an existing diversified portfolio.

Of course, given a choice between projects of similar expected commercial outcomes, UniSuper would opt for the project with greater social benefit, and we suspect most other superannuation funds would do the same. Our investment in the Victorian Comprehensive Cancer Centre[[2]](#footnote-2) certainly could be considered impact investing, while at the same time delivering market returns.

The call for superannuation funds to become more involved in impact investing has a similar ring to various other initiatives that arise from time-to-time that are deemed to be in the public interest. Some well-intentioned groups have advocated that super funds be required to allocate a portion of their funds to sectors such as social infrastructure, renewable energy, and even venture capital; however, advocacy along these lines tends to overlook the fact that superannuation investments must be placed within a strict legal framework. The recent discussion on the Objective of Superannuation outlines that:

*Superannuation funds are managed for the sole benefit of members, which means the investment focus should be on maximising risk-adjusted returns, net of fees and taxes, over the lifetime of a member.[[3]](#footnote-3)*

As a fiduciary, we simply cannot consider investments that deliver 'below market rates', regardless of the virtues of such an investment from a public benefit perspective. As long as there is a best interest duty, we do not believe that further guidance is necessary. Trustees generally have a good understanding of their current duties; guidance that would weaken the focus on this primary duty, we believe, would create more confusion than clarification.

1. This submission has been prepared by UniSuper Management Pty Ltd (ABN 91 006 961 799), which acts as the administrator of the Trustee, UniSuper Limited (ABN 54 006 027 121). [↑](#footnote-ref-1)
2. UniSuper is proud to be the major private investor in the Victorian Comprehensive Cancer Centre (VCCC), a world-class facility, purpose-built for cancer research, treatment, care and education. Developed as private public partnership, or ‘PPP’, the VCCC is the new home of the Peter MacCallum Cancer Centre and will also be home to leading clinical and research staff from Melbourne Health and the University of Melbourne. [↑](#footnote-ref-2)
3. Australian Government (2016), *Objective of Superannuation; Discussion Paper*, p. 2 [↑](#footnote-ref-3)