

s 22

**From:** s 22  
**Sent:** Monday, 16 March 2020 10:53 AM  
**To:** s 22  
**Subject:** FW: Proposed amendments to the Your Superannuation, Your Choice Bill  
[SEC=OFFICIAL]  
**Attachments:** Your Super Your Choice Bill 2019 - proposed amendment.docx

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**From:** s 47F  
**Sent:** Monday, 16 March 2020 10:52 AM  
**To:** s 22  
**Cc:** s 47F  
**Subject:** Proposed amendments to the Your Superannuation, Your Choice Bill

Hullo s 22

Thank you for meeting with us this morning to discuss the concerns we have with the Bill and the consequences for our open defined benefit scheme.

As discussed, we've put some thought into how an amendment to the Bill could be drafted so as to ensure that *newly* eligible defined benefit members can continue to be automatically enrolled in defined benefit schemes. What is a proposed is an extension of the EBA exemption beyond 1 July 2020, but only where the EBA contemplates the relevant person joining a defined benefit scheme.

Note the exemption would not extend to all employees covered by the EBA, only to those eligible to become defined benefit members. Importantly, the proposed wording makes reference to an election period to cease being a defined benefit member so that, under the proposed exemption, choice for newly eligible defined benefit members would be deferred but not denied, giving effect to a model of "deferred choice". This will partially mitigate the adverse selection risk that we have previously discussed while preserving the integrity of the Government's preferred general choice position.

Our proposed amendments to the legislation are outlined in the attached annexure. We are very keen to discuss these amendments further with Treasury, noting that there may well be other ways to give effect to a workable choice amendment for open defined benefit schemes.

Thank you

s 47F

UniSuper Management Pty Ltd

s 47F

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## Consultation Summary - Treasury Laws Amendment (Your Superannuation, Your Choice) Bill 2019

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## UniSuper

**Overall position:** Oppose. UniSuper seek an exemption in the Bill for their defined benefit schemes, and in particular, UniSupe's schemer.

### Key Points:

- UniSuper state that the number and characteristics 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. Changes like this, UniSuper argue, would result from this Bill
- UniSuper has neither a government or employer guarantee to cover funding shortfalls, nor recourse to additional employer contributions. As a result, UniSuper state the risk of adverse outcomes from changes to experience would be borne by Fund members.

s 22

**From:** s 22  
**Sent:** Tuesday, 10 March 2020 1:04 PM  
**To:** s 22  
**Subject:** FW: Senate Economics Committee hearings [SEC=OFFICIAL]

**Follow Up Flag:** Follow up  
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**From:** s 22  
**Sent:** Tuesday, 10 March 2020 1:03 PM  
**To:** s 47F  
**Cc:** s 22  
**Subject:** RE: Senate Economics Committee hearings [SEC=OFFICIAL]

**OFFICIAL**

Thanks s 47F – we would be very happy to have further discussions. Our particular interest is the additional adverse selection risk that arises from making the DB opt in compared to the 15-20 per cent of people who currently opt-out in the 24 month period, on top of the s 47G(1) that are not opted in under current arrangements.

When would work best for you? I have to go to Sydney again on Thursday but Friday afternoon could work for us.

Thanks  
s 22

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**From:** s 47F  
**Sent:** Monday, 9 March 2020 3:28 PM  
**To:** s 22  
**Subject:** Senate Economics Committee hearings

Hullo s 22

Hope you're well.

I've been listening to today's hearings and I think s 22 mentioned that while we've met in the past, we haven't discussed our more detailed concerns. It was really a matter of timing that prevented us from taking you through what we are proposing but we'd be very happy to catch up with you, s 22 to take you through the issues. Attached is our supplementary submission.

Is there a time that suits to catch up? We can even do it over the phone if the three of you are in different states.

I look forward to hearing from.

s 47F

UniSuper Management Pty Ltd



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s 22

**From:** s 22  
**Sent:** Thursday, 6 February 2020 4:57 PM  
**To:** s 47F ; s 22  
**Cc:** s 47F  
**Subject:** RE: Follow up with some additional information [SEC=OFFICIAL]

**OFFICIAL**

Thanks s 47F for sending this through – its very useful.

s 22

Thanks again

s 22

Principal Adviser, Retirement Income Policy Division

s 22

**OFFICIAL**

**From:** s 47F  
**Sent:** Wednesday, 5 February 2020 4:33 PM  
**To:** s 22  
**Cc:** s 47F  
**Subject:** Follow up with some additional information

Hullo s 22

Thank you for you for meeting with us last week to discuss emerging policy issues.

One of the issues we discussed was our submission to the Senate Economics Committee on the Treasury Laws Amendment (Your Superannuation, Your Choice) Bill 2019. When we discussed our concerns, you asked for additional information about our defined benefit members, particularly the options they had to move between benefit types as well as the option to “opt out” of becoming a UniSuper member in the first place.

#### **Flexibility built-in to existing default arrangements**

As discussed, despite being the named fund in higher education awards and EBAs, new employees to the higher education sector can still “opt out” of being a member of UniSuper. Since 2006, the majority of universities have rules in place that allow up to 5% of those eligible for DBD membership to not join UniSuper. This has historically been done where an employee is already a member of another similar defined benefit scheme, such as the CSS or PSS, or is a visiting academic from overseas. These rules were also established to prevent members having duplicate superannuation accounts.

#### **Defined benefit members have the option to move to Accumulation 2**

Another thing we discussed was that members can move between our defined benefit division (DBD) to our Accumulation 2 option within the first 24 months of their membership. Over the past 10 years, we have had

approximately 11,000-12,000 new DBD members each year of which around 15% make the decision to move to our accumulation option in the relevant timeframe.

#### Defined benefit and Accumulation 2 members who exercise portability

We also mentioned that Defined Benefit and Accumulation 2 members are also able to transfer all but \$6,000 of their accumulation accounts to another fund of their choice under the portability rules. We allow members to do this four times a year (above the legislated minimum of once per year). s 47G(1)(a)

	FY 2015	FY 2016	FY 2017	FY 2018
FUM – Portability rollovers *	s 47G(1)(a)			
FUM - Total external rollovers				

\* We estimate portability rollovers out of total rollovers based on the relevant members having an active employment.

#### In-built flexibility and optionality

The outcome of these arrangements, when taken together, is that our members have a number of options. Not only is there an option to cease being a defined benefit member within 24 months of joining, there is also a positive choice to remain a defined benefit member. We believe that these “suite of choices” would be put at risk if default arrangements did not give full consideration to the mechanism by which new employees become defined benefit members.

s 22

Once again, thank you for the meeting. It was extremely helpful for us, and we hope this additional information is helpful to you in understanding the issues raised in our submission.

s 47F

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# UniSuper Superannuation structure

## UniSuper Background

- Each university has a different policy for who is offered a defined benefit scheme. However, the only people who can be offered the defined benefit scheme are normally full-time university employees who are specifically aligned to the core university business model e.g. an academic.
- There are two ways in which a person who is eligible for UniSuper's defined benefit scheme, has the option to not be a part of UniSuper's defined benefit scheme:
  - The National Tertiary Education Union (NTEU) stated in their submission (in relation to UniSuper) that university employers have a flexibility quota of up to 10% for new employees to choose a different fund.
  - UniSuper defined benefit members in the defined benefit division (DBD) have the option to move to the accumulation account (named Accumulation 2) within the first 24 months of membership.

s 47E(d)

- UniSuper also allows Accumulation 2 members to transfer all but \$6,000 of their accumulation accounts to another fund of their choice under the portability rules. They allow members to do this four times a year (above the legislated minimum of once per year).
- All of these point to the argument that there is already flexibility within UniSuper's business model, meaning that this Bill may not have the significant additional impact put forward by the fund.

## APRA fund level statistics on UniSuper (as at June 2019):

Total number of member accounts at the end of period	Number of Defined benefits only accounts	Number of Defined contribution benefits only accounts	Number of both defined benefits and defined contribution benefits accounts
474,772	11,783	373,186	89,803
Total members' benefits at end of period	Defined benefits only - member benefits	Defined contributions only - member benefits	Both defined benefits and defined contributions only - member benefits
\$72.8 billion	\$5.7 billion	\$44.5 billion	\$22.7 billion

## UniSuper's position

- UniSuper argued that the Bill could negatively affect the business model for their open defined benefit scheme.
  - In their collectively-pooled arrangement, UniSuper says the choice of some consumers to not enter the scheme can adversely affect others. s 47G(1)(a)

**s 47G(1)(a)**

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

**s 47E(d)**

## Annexure:

### UniSuper proposed modifications to the Superannuation Guarantee (Administration) Act 1992 (the “SGA Act”) to partially mitigate adverse selection impacts on defined benefit members

#### 1. Modify section 32C(6) of the SGA Act as highlighted in yellow

(6) A contribution to a fund by an employer for the benefit of an employee is also made in compliance with the choice of fund requirements if the contribution, or a part of the contribution, is made under, or in accordance with:

- (a) a pre-reform certified agreement; or
- (b) an AWA; or
- (c) a pre-reform AWA; or
- (d) a collective agreement; or
- (e) an old IR agreement ; or
- (f) an ITEA; or
- (g) a workplace determination; or
- (h) an enterprise agreement which is either:

(i) an enterprise agreement which was made before 1 July 2020; or

(ii) an enterprise agreement which provides for an employee or a person who will be an employee to join a fund:

(A) of which the relevant person is eligible to become a defined benefit member; and

(B) in relation to which either or both of the following are satisfied:

a. the governing rules permit the relevant person, within a period specified within the governing rules, to choose not to remain a defined benefit member;

b. the person may choose another fund; or

(i) an award mentioned in paragraph 2(2)(a) of Schedule 3 to the Fair Work (Transitional Provisions and Consequential Amendments) Act 2009 ; or

(j) a State reference transitional award or common rule.

#### 2. Modify section 32NA(2) of the SGA Act as highlighted in yellow below:

(2) An employer is not required under section 32N to give an employee or a person who is eligible to become an employee a standard choice form if:

(a) the employer will make or is making contributions of a kind mentioned in subsections 32C(3) to (9) for the benefit of the employee; and

(b) the contributions will be made or are made in compliance with the choice of fund requirements.

3. Modify section 32NA(9) of the SGA Act as highlighted in yellow below:

*(9) An employer is not required under section 32N to give an employee or a person who is eligible to become an employee a standard choice form if:*

- (a) the employee is or will become a defined benefit member of a defined benefit superannuation scheme; and*
- (b) the employee would be entitled, on the employee's retirement, resignation or retrenchment, to the same amount of benefit from the defined benefit superannuation scheme, whether or not the employee had contributions made by the employer for his or her benefit to a fund other than the defined benefit superannuation scheme.*

4. Insert a new section 32F(4) of the SGA Act as highlighted in yellow below:

*(4) A fund (the selected fund) cannot become a chosen fund for an employee or person who will become an employee under this section if the person has or is eligible to become a defined benefit member pursuant to an arrangement of the kind referred to in section 32C(6)*