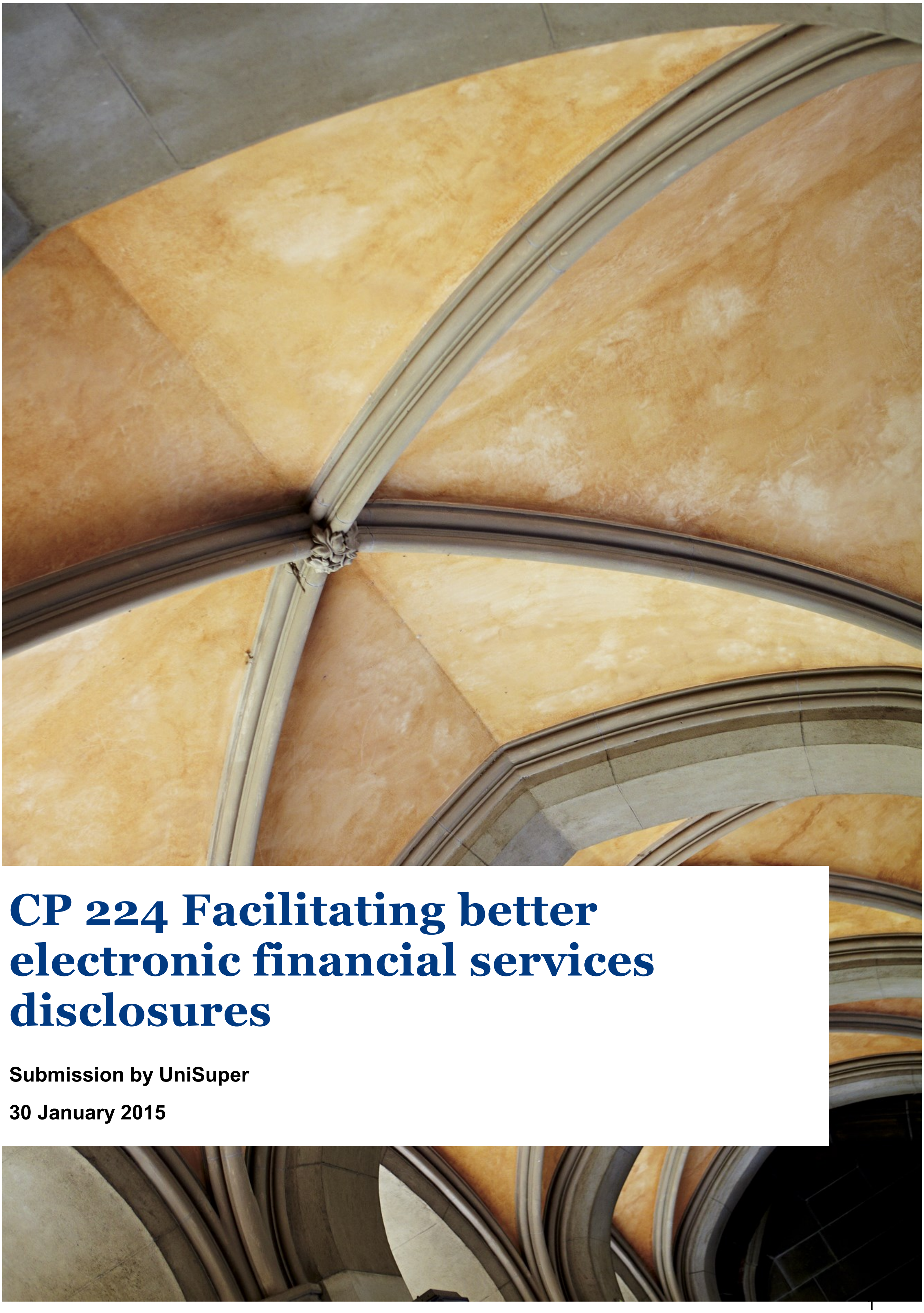

CP 224 Facilitating better electronic financial services disclosures

Submission by UniSuper

30 January 2015

Introduction

ABOUT UNISUPER

UniSuper is the superannuation fund dedicated to people working in Australia's higher education and research sector. With more than 471,520 members and $42.7 billion in net funds under management (as at June 2014), UniSuper is one of Australia's largest superannuation funds and has one of the very few open defined benefit schemes.

We support moves to cut red tape and to encourage more electronic disclosure. In fact, UniSuper is currently embarking on a major project to redevelop our online member portal. This redevelopment will transform the way our members interact with us and we anticipate in the near future where most member interactions and transactions will take place online.

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).

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. To discuss these matters further, please contact Benedict Davies, Manager, Government and Industry Policy on (03) 9910 6671 or benedict.davies@unisuper.com.au.

Enabling electronic disclosure to be the default method

UniSuper strongly supports Option 4 in ASIC's Consolation Paper which is a combination of Options 1 to 3. Our specific comments on those Options are below.

Comments on Option 1

We support financial services providers being given an option to publish disclosures electronically and then notify members when the disclosure is available. This "pull" method has a number of advantages when compared to the two main alternatives "push" or "post" methods.

PULL – electronically delivered disclosure via email, SMS or other format containing a hyperlink to the mandated disclosure. Typically, the disclosure is located on the fund's website on a secure webpage containing details of the member's account accessible only to that member with a password required for entry. An alternative to email could be a "splash page" or "pop-up" appearing when a member logs-in to his or her account.

PUSH – electronically delivered disclosure, typically email, containing a disclosure e.g. a PDF attachment of a member statement.

POST – paper-based disclosure containing the relevant document(s). Use of paper-based postal disclosures will remain an ongoing option where members opt-out of electronic disclosure or providers receive "returned" electronic communications.

Why is pull disclosure preferred?

We submit pull disclosure is preferred for the following reasons:

1. **Security of member information**
   The delivery of disclosure to members in a controlled environment managed by the financial services provider is preferable to either sending members' information in the post or "pushing" emails to members with attachments. This method provides for better protection of a member's information, particularly where the disclosure is to a discrete group of members and published to a member's account, which is then only accessible by password..

   We believe another compelling reason to support this Option is that it helps funds fulfil their privacy obligations; particularly, Australian Privacy Principle 11 to protect personal information from "misuse, interference or loss" and "unauthorised access, modification or disclosure".

We also believe that offering members online accounts or 'apps' that give members access to personal information quickly and inexpensively helps providers meet the requirements of APP 12.

2. **Reduced cost to members when compared to paper-based disclosure**
   Electronic disclosure is also preferred because it saves money compared to the cost of printing and posting traditional paper-based disclosures. As a profits-for-members fund, all additional compliance costs are ultimately borne by members.

3. **Increased member and employer preference for "paperless" transactions**
   Another reason to prefer electronic disclosure is that we have received feedback from both members and employers that they prefer "paperless" transactions, and the delivery of disclosures electronically by electronic publication meets these stakeholders' needs.
   In this environment, the Trustee can also act as the storage service for the members whereby at any time the member can log-on and recover the mandated disclosure. This saves members from having to maintain their own records.

While we understand that there has been a view across parts of the industry that disclosures "pushed" to members electronically are preferred. It is asserted that it is easier to establish that members have been "given" the disclosure when it's "pushed" out to them in an email. We suggest, therefore, that ASIC in its final guidance should make it absolutely clear that providers do meet their obligations to "give" the disclosure to members where it is published electronically and not sent directly to a member.

Comments on Option 2

UniSuper strongly supports financial services providers using email addresses (or other electronic identifiers) for their members to deliver disclosures electronically.

Further, we submit that when an email address is collected by a fund, it should be assumed that the electronic address will be the default address for mandated disclosures. To this end, we submit that ASIC should publish in its final guidance a standard disclosure for providers to explain this to a member - an example could be something along the following lines:

"We will use your email address for any mandated member correspondence."

We believe that this would help funds when taking a member's email address over the phone or via other electronic mediums where the assumption should be that once a member has provided an email address it will then be used as the primary address for mandated member correspondence, unless a member opts-out and expressly wishes to receive paper-based disclosures.

NB: If Option 1 is accepted, this Option should be expanded to also cover SMS or other electronic addresses (e.g. whatsapp, Viber) to deliver the pull technique message.

B2Q6 Do you think we should restrict the use of hyperlinks in notifications?

We do not believe that ASIC should restrict the use of hyperlinks in notifications. However, we believe it is good practice to never send sensitive member information in email or with a "live" hyperlink that opens without a password. Therefore, we suggest that ASIC provide guidance that good practice should focus on protecting member information while allowing hyperlinks that open to non-sensitive member information to be sent as well as hyperlinks opening to specific member information without a password.

Facilitating the use of more innovative PDSs

Comments on Option 3

We support the use of more innovative forms of electronic disclosure, such as interactive product disclosure statements (PDSs).This would facilitate not only disclosures, but better member engagement. In fact, we are currently developing an interactive PDS within the existing framework but we believe that further support is needed in the form or principles-based regulatory guidance.

Issues with PDS and "eligible applications"

We also believe that ASIC should give further guidance on the meaning of "eligible application" (Corps Act 1016A) and should make it clear that funds can issue application forms with hyperlinks to the PDS.

From experience, when a PDS is "rolled" or a supplementary PDS is issued (under the "long" form rules), super funds can be regularly beset by problems with the application form needing to have been "given" along with the PDS, which if it cannot be established if it was given together, makes the application ineligible. This could result in a significant administrative burden, extra work for members, contribution strategies and cap problems as well as a multitude of other problems.

We would like to see a generic application form being able to be "given" with a hyperlink. This would ensure ongoing currency for the application form as it changes far less frequently than PDSs.

Comments on relief for significant event notifications

Comments on relief from the requirement for express client consent

In draft RG 221, ASIC proposes to extend relief by Class Order to enable providers to make disclosures available electronically for ongoing disclosure of material changes and significant events. We strongly support this measure.

Currently, many funds provide members with periodic updates in the form of member newsletters. For example, UniSuper provides its members with a quarterly publication known as Super Informed, and we make use of this publication to engage members as well as to deliver some disclosures. We submit that it would be helpful for funds to be able meet their disclosure obligations by putting member publications on their websites and then alerting members to their existence.

Clearly, as with all electronic disclosures, there needs to be a distinction between general disclosures affecting all members (e.g. changes to fees) and disclosures that affect a designated class of members (e.g. to members invested in a particular investment option where there has been a change of investment strategy). Superannuation trustees should ultimately determine what information is published on the general part of their website or whether it is accessible on a secure password-only part of the fund's website.