

PRODUCT RULING - BR Prd 05/06

This is a product ruling made under section 91F of the Tax Administration Act 1994.

Name of the Person who applied for the Ruling

This Ruling has been applied for by The New Zealand Guardian Trust Company Limited as Trustee of the AMP Superannuation World Index Fund.

Taxation Laws

All legislative references are to the Income Tax Act 2004 unless otherwise stated.

This Ruling applies in respect of sections BD 2, BD 4(2), DA 1(1), DA 2(1), DB 17, FI 1, FI 2, HH 3(5) and the definition of “superannuation fund” in section OB 1.

This Ruling does not consider how (if at all) sections CH 1, DB 40 and ED 1 apply to the Arrangement.

The Arrangement to which this Ruling applies

The Arrangement is the redemption of Units in the AMP Superannuation World Index Fund (“the Fund”) by members who receive securities for their redemption, and those shares are trading stock or revenue account property of that member. Further details of the Arrangement are set out in the paragraphs below.

1. The Fund is a registered superannuation scheme under the Superannuation Schemes Act 1989.
2. The Fund invests in securities of those companies that are included in the AMP World Index (the “AMP Index” or the “Index”). The AMP Index is a customised version of the Morgan Stanley Capital International World Index (the “MSCI World Index”) and tracks those securities in the MSCI World Index which are from “Grey List” countries if the market capitalisation of the country’s securities included in the MSCI Index represents at least 1% of the MSCI Index. The Fund has been designed to provide members with a simple and cost efficient method of investing in a portfolio with a performance broadly representative of the world share market.
3. The Trustee of the Fund is the New Zealand Guardian Trust Company Limited (“the Trustee”), although the Trust Deed contains provision for the retirement and replacement of the Trustee.
4. The Manager of the Fund is AMP Investment Management (N.Z.) Limited (“the Manager”), a wholly owned subsidiary of AMP Limited.

5. Clause 5.3.1 A of the Trust Deed provides:

The Fund shall seek to track the Index by investing in Constituent Company Securities as near as practicably possible to their weightings in the Index and the Trustee's primary investment duty shall be to seek to achieve this purpose. All other investment duties (express or implied) shall be construed subject to this duty. The Fund and the Trustee shall not have an intention to profit from holding, acquiring or selling Constituent Company Securities.

6. The Trust Deed also ensures that any statutory superannuation schemes (ie any superannuation scheme constituted under an Act of Parliament or government superannuation scheme) can also join the Fund.
7. The Fund is required to buy and sell shares as required to ensure that its portfolio continues to correspond as near as practicably possible to the Index. Such buying and selling will not be motivated by any intention to derive a profit or gain from such sales. The sole purpose of the Fund will be to continue to track the Index as near as practicably possible irrespective of whether the sale of shares will give rise to a profit or loss.
8. The beneficial interest in the Fund is divided into Units. Every Unit confers an equal interest in the Fund, but does not confer any interest in any particular investment of the Fund.
9. The Applicant and the Manager have confirmed that, to the best of their knowledge, the Fund has complied with the previous rulings (BR Prv 04/69 and BR Prd 02/08) relating to the Fund.

The Trust Deed and Members Booklet for the Fund

10. The terms of the Fund are provided in the Trust Deed. There are no clauses in the Trust Deed or Rules of the Fund or any other documents that operate differently for specific members or groups of members.

Membership

11. The Fund was established as a wholesale registered superannuation scheme in which any other superannuation scheme can invest. The Fund was not established by any particular financial institution as an investment vehicle for that institution.

Date of adjustments

12. The Fund is rebalanced every quarter and other adjustments are made as a result of mergers, takeovers, rights issues and share buy-backs when those events occur.

Mergers, takeovers, share buy-backs and right issues

13. The Index may be adjusted from time to time because of mergers, takeovers, share buy-backs, distributions of capital, cash issues, and substitutions of

companies in the Index. With the exception of any situation where shares in a Constituent Company are compulsorily acquired pursuant to any companies legislation, listing rules or takeover code requirements, in the event of a merger or takeover, the Manager will adjust the Fund portfolio at a time as close as practically possible (but in any event within three business days) to the time the Index is adjusted. The Fund will not accept an offer, unless as a consequence of not accepting the offer, the Fund would track the Index less accurately than if it had accepted the offer.

14. In the event of a share buy-back by a Constituent Company of the Index, the Manager will adjust the Fund portfolio at a time as close as practicably possible (but in any event within three business days) to the time the Index is adjusted. This adjustment will not be made through electing to participate in a buy-back scheme of a Constituent Company, except if the Fund is able to accept a buy-back offer at the same time as an Index adjustment for that Constituent Company occurs.
15. In the event of any rights issue by a Constituent Company, the Manager will hold the entitlement if the entitlement is included in the Index. If the entitlement is not included in the Index, but the securities the subject of the entitlement will be immediately included in the Index, the Manager will retain the entitlement and take up the securities. If the Manager does not know whether the securities the subject of the entitlement will be included in the Index, the Manager will sell the entitlement at the earliest possible time and reinvest the proceeds in the Constituent Companies to track the Index.

Events that trigger acquisitions or realisations

16. Initial contributions to the Fund are made through the Manager. The Manager deposits the cash contributions from the members into the Fund. The Manager invests these cash contributions, in return for which the Manager receives Units on behalf of members. The Manager subcontracts the function of converting contributions to parcels of shares in companies included in the Index to Henderson Fund Management plc (“the Investment Manager”), which is based in the United Kingdom. The Investment Manager will purchase securities in the Index according to the pre-determined rules for calculating and maintaining the AMP Index set out in the current private ruling for the Fund (BR 04/69).
17. Under the Trust Deed, the Manager is responsible for further issues of Units in the Fund. The Manager is also responsible for Unit redemptions.
18. Dividends, net of any fees or expenses of the Fund, that accrue to the portfolio of shares held by the Fund will be invested in securities that constitute the Index or held in cash pending the investment of that dividend.
19. There are certain reasons or events when investments held by the Fund will have to be bought or sold. The Fund will only sell or otherwise dispose of securities in the following circumstances:

- If the Fund is voluntarily or involuntarily wound up, or if the Trustee is replaced (and this of itself means that there is a technical disposal of securities)
 - If there is a change in the AMP Index composition and the composition of the Fund no longer tracks the Index or when the Fund is otherwise required to buy and sell securities to maintain tracking
 - On the redemption of Units in order to pay benefits to members
 - Where proceeds are received by the Fund in the form of securities
 - Where there is no election available and where dividends are received in the form of bonus securities and they are converted to cash
 - Where securities are purchased in error
 - To satisfy a legal claim made against the Fund or the Trustee
 - To meet any expenses of the Fund, which are authorised by clause 10.3.10 or 11.3.2 of the Trust Deed.
20. Clauses 10.3.10 and 11.3.2 provide for the Trustee and Manager to be reimbursed from the Fund for all Administrative Expenses (as defined in the Trust Deed) incurred by them.

Payment of benefits

21. A member is only able to dispose of its Units by requesting the Manager to redeem the Units for the purpose of paying a benefit to that member. A member may redeem Units subject to the conditions in clause 8 of the Trust Deed. Clause 8.3.3 requires redemptions to be for amounts of at least \$10,000 or all of a member's Units and no member is to be left with less than \$100,000 worth of Units. The Manager may also suspend redemptions in the limited circumstances noted at paragraph 31 below. The redemption can be in the form of cash and/or cash equivalents and/or securities. Even though the Trust Deed gives the Manager a general discretion to redeem by cheque or the transfer of Constituent Company Securities or a combination of them (clause 8.14 of the Trust Deed), redemption in securities will only arise at the request of the member (ie redemption in securities will not arise at the discretion of the Manager/Trustee). In addition, the Manager will not exercise this discretion with a view to increasing the performance of the Fund in any way. Where a member requests a redemption in securities the Manager will only decline a request for redemption in securities due to size constraints (ie the units held by the member is small and as such a parcel of securities cannot be formed).
22. The Units in the Fund are valued on the basis of the market value of the securities and other assets that the Fund holds.
23. Redemptions will be made from the cash pool if sufficient funds are available, otherwise redemptions will be financed from the sale of securities. In addition, following a redemption, the cash pool will not normally be topped up and there is no specified period of time in which the cash pool will be injected with further funds. Accordingly, if there is insufficient cash to pay a redemption if it arises, the redemption will be financed through the sale of securities.

24. Members redeem Units directly with the Fund, with the Manager acting on behalf of the Trustee (ie members do not sell their Units to the Manager who then redeems them with the Fund).

25. Clause 8.3.2 of the Trust Deed provides:

Every Benefit payable under this clause 8.3 shall be determined by multiplying the Redemption Price calculated on the date of acceptance by the Manager by the number of Units redeemed and become payable to the Member not later than ten (10) Business Days following the date on which the Manager receives the Benefit request or on any later redemption date requested by the Member.

26. Redemption Price is defined in clause 3 of the Trust Deed to mean the “Current Unit Value” less the “Exit Fee”.

27. Current Unit Value is defined in clause 3 of the Trust Deed as:

... on any date an amount that is arrived at by dividing the Current Fund Value by the number of Units on issue on such date ...

28. The Current Fund Value is defined in clause 3 of the Trust Deed as:

The amount calculated by adding as at any time when a valuation is required in relation to the Fund:

- (a) the total of the market value of all Cash, units in the AMP Investments’ World Index Fund and investments of the Fund determined pursuant to clause 6; and
- (b) the income of the Fund due but not yet received; and
- (c) any other amounts which, in the opinion of the Manager, should be included for the purposes of making a fair and reasonable determination of the value of the Fund having due regard to duly accepted accounting practice and accounting principles from time to time, and deducting therefrom such amounts:
- (d) as are required to meet liabilities properly attributable to the Fund (actual or contingent and not otherwise allowed for in determining the value of any asset) to the extent that the Manager has decided that provision should be made in the accounts of the Plan;
- (e) as represent Administration Expenses payable by the Trustee or the Manager; and
- (f) which, in the opinion of the Manager, should be included for the purpose of making a fair and reasonable determination of the current value of the Fund having due regard to generally accepted accounting practice and accounting principles current from time to time.

29. Clause 3 of the Trust Deed provides that Market Value in relation to the Constituent Companies Securities in the Index means:

... the last sale price of that security on its home stock exchange at any relevant time (provided that the last sale price is the same as or higher than the current buy price and lower than the

current sell price. In the event that the last sale price is lower than the then current buy price, then the market value is the then current buy price and in the event that the last sale price is higher than the current sell price then the market value is the current sell price).

30. Exit Fee is defined in clause 3 of the Trust Deed to mean:

...such sum, if any, as the Manager in its absolute discretion may determine (either generally or in relation to a particular Benefit) to be a fair fee payable in relation to the relevant Benefit to provide for the likely per Unit cost of realising Assets to meet that Benefit, having regard to the Manager's estimate of the aggregate of all costs, charges, expenses, disbursements, commissions, brokerage and other usual fees which would be likely to be incurred in respect of the sale or disposal of Assets on the date of calculation of the Redemption Price if Assets to fund a Unit's Redemption Price were sold or disposed of on such date.

Suspension of payment of benefits

31. Clause 8.5 of the Trust Deed provides that the Manager can suspend redemptions in certain circumstances up to a period not exceeding 20 business days. The Fund will not utilise the power to suspend the redemption of units except in exceptional circumstances (where and to the extent that it is necessary to do so) being:

- (i) if the Fund is unable to convert sufficient assets into cash, to meet a redemption request, or
- (ii) if the market value of the units at the time is not a true reflection of the actual value of the units, due to a suspension in trading of any Constituent Company Securities on any exchange, or
- (iii) if, for reasons beyond its control, the Manager is unable to calculate the redemption price.

Any such suspension will be for a maximum period of three business days, except if an exceptional circumstance occurs that is beyond the control of the Trustee and the Manager of the Fund, in which case the suspension shall be only for such period as is strictly necessary for the Fund and/or the Manager to recover from that event.

32. The Fund has suspended redemptions on one occasion before. This suspension occurred as a result of the terrorist attacks in New York on 11 September 2001 as none of the underlying securities held by the Fund were being traded.

Ability to decline membership

33. Clause 7.1.5 of the Trust Deed provides that the Manager may accept or decline any application to become a member and shall not be required to give reasons for any such decision.
34. The Manager has never refused an application for membership. However, the Manager may in the future refuse applications for membership. The circumstances where this is likely to arise include:

- where the applicant is not, or ceases to be, a registered superannuation scheme or statutory superannuation scheme, or
- where accepting the application could result in the Fund breaching a Condition of the existing private ruling for the Fund (BR Prv 04/69 or any such replacement ruling).

Hedging

35. The Fund will not take any action to hedge or manage foreign exchange risks or exposures that arise from the investments of the Fund being held in non-New Zealand currencies. The Fund does not enter into any hedging transactions.

Borrowing

36. Clause 10.3.2 of the Trust Deed provides that the Trustee may not borrow any money for the purposes of the Fund otherwise than for the purpose of satisfying payment of any Administrative Expenses.

Cash investments held by the Fund

37. Although it is not an objective of the Fund to invest in cash securities, the Fund may hold cash to facilitate the easier administration of the Fund. The Fund will hold cash in the following instances:
- Following the sale of securities in the course of tracking the Index, pending the reinvestment of that cash
 - Following a contribution to the Fund, pending the investment of that contribution
 - Following the receipt of a cash dividend or a non-cash dividend and its conversion to cash, pending the investment of that dividend
 - Following the sale of securities to meet a request to redeem units in cash
 - To accumulate the minimum amount of cash that will be used to purchase securities in a marketable and economically sensible sized parcel so as to minimise the Fund's transaction costs. The Manager has advised that this amount is presently US\$1 million, but may reduce where a lower amount can permit transaction costs to be maintained at the current level (or a level not materially different)
 - Following the disposal of securities in the course of and for the purpose of winding up the Fund.
38. The proportion of the Fund's assets to be held as cash or cash equivalents will not be greater than what strictly arises out of the above described circumstances, and in any event will not exceed 1% of the total assets of the

Fund, except if the Fund receives a large cash contribution (provided the cash is invested as soon as possible and in any event within three business days) or a member requests a large cash redemption (provided the cash is distributed within three business days of the sale of securities), or the Fund holds cash in the course of or for the purpose of winding up the Fund.

39. Cash equivalents must have a maturity date of six months or less. Cash equivalents will not include units in any unit trust or group investment fund.
40. It is not envisaged that the amount of cash required to enable the purchase of securities in a marketable and economically sensible sized parcel will change from US\$1 million unless there are improvements in share trading systems that make it economic to trade in smaller parcels of shares. This would be beneficial for the Fund as it would be able to invest surplus cash sooner and keep the cash levels in the Fund at a lower level than might otherwise be the case if the Fund is confined to a predetermined minimum parcel size.

Conditions stipulated by the Commissioner

This Ruling is made subject to the following conditions:

- a) The Fund is an investment vehicle primarily for investment into by superannuation funds, being superannuation schemes registered under the Superannuation Schemes Act 1989, which are themselves either:
 - (i) widely-held investment vehicles for direct investment by natural persons, or
 - (ii) vehicles for investment (directly or indirectly) by other superannuation funds that are widely-held vehicles for direct investment by natural persons.
- b) The Fund operates in accordance with its Trust Deed dated 4 December 1998.
- c) The Fund is a registered superannuation scheme under the Superannuation Schemes Act 1989.
- d) The Fund only tracks the AMP World Index.
- e) The market value of a security at any time shall be the value quoted on the relevant Stock Exchange at that time, as determined by the method provided in the definition of market value in Clause 3 of the Trust Deed.
- f) The Manager in determining the Members' entitlement to securities on redemption of Units in the Fund under clause 8.3 of the Trust Deed, shall use the market value of those securities at the valuation time (as defined in the Trust Deed).

- g) The amounts derived by the Member from the subsequent sale or disposal of securities received on redeeming Units in the Fund will be assessable income of the Member.
- h) Members do not acquire Units in the Fund for the purpose of acquiring securities.
- i) Units in the Fund are not tradeable on a secondary market.
- j) The Fund is established by its Trust Deed mainly for the purpose of paying benefits to superannuation funds.

How the Taxation Laws apply to the Arrangement

Subject in all respects to any assumption or condition stated above, and the qualification in respect of sections CH 1, DB 40 and ED 1 under the heading “Taxation Laws” above, the Taxation Laws apply to the Arrangement as follows:

- Pursuant to section HH 3(5) any amounts (including securities) received by members as a result of redemption of Units in the Fund will not be income of the member.
- Pursuant to sections FI 1 and FI 2, the cost of any securities acquired by a member on redemption of Units in the Fund is the market value of those securities on the date the member acquires the securities.
- Section DA 2(1) does not apply to the cost of any securities acquired by a member on redemption of units.
- The cost of a security acquired by a member on the redemption of Units (being the market value of the security on acquisition) is an allowable deduction under section BD 2, section DA 1(1) and section DB 17. It is deductible in the income year in which the Units are redeemed under section BD 4(2).

The period or income year for which this Ruling applies

This Ruling will apply for the period beginning on 1 October 2005 and ending on 30 September 2008.

This Ruling is signed by me on the 2nd day of December 2005.

Howard Davis
Senior Tax Counsel

