



One Company
Many Brands



Suncorp Group Limited
ABN: 66 145 290 124

36 Wickham Terrace
Brisbane QLD 4000

GPO Box 193 Melbourne VIC 3001
annabelle.butler@suncorp.com.au

Phone (03) 8681 9428 | Mobile 0425 294 903

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The Executive Director
Australian Law Reform Commission
GPO Box 3708
Sydney NSW 2001

Email: age_barriers_to_work@alrc.gov.au

Dear Commissioner

Grey Areas – Age Barriers to Work in Commonwealth Laws: Issues Paper 41

Suncorp welcomes the Australian Law Reform Commission's (ALRC) Inquiry *Age Barriers to work in Commonwealth Laws* (the Inquiry) and the accompanying *Grey Areas* Issues Paper (the Issues Paper). Suncorp is one of Australia's largest general insurance groups and appreciates the opportunity to contribute to this Inquiry.

The Suncorp Group

Suncorp Group Limited and its related bodies corporate and subsidiaries (collectively 'Suncorp') offer a range of financial products and services in banking (Suncorp Bank), general insurance, life insurance and superannuation (Suncorp Life) across Australia and New Zealand. Suncorp has around 16,000 employees and relationships with over nine million customers.

This submission is made on behalf of our Suncorp Life, Commercial Insurance and Personal Insurance divisions.

Our Submission

Suncorp supports the removal of age barriers in Commonwealth law with the ultimate aim of increased workforce participation among older Australians. Suncorp recognises the importance of work to many Australians in providing benefits financially, socially and to general health and wellbeing. In addition, Suncorp recognises the economic value in supporting increased mature age workforce participation.

Suncorp believes the key to increased mature age workforce participation is to recognise that the ideal retirement age varies for each individual. The individual's health, occupation, goals and family structure, among many other factors, all influence the ideal time to retire from the workforce. It is therefore important to remove age barriers where appropriate and allow greater flexibility in the transition to retirement.

Suncorp's detailed response to the Issues Paper is enclosed as Appendix A. Suncorp strongly supports the removal of age barriers in Commonwealth laws and is happy to assist the Commission further upon request. In particular, Suncorp would be happy to provide assist the ALRC in understanding and managing the insurance related impacts of increasing mature age workforce participation.

If you have any questions or comments regarding Suncorp's submission, please contact me directly on 03 8681 9428 or annabelle.butler@suncorp.com.au. Alternatively, please contact Ben Honan on 03 8681 9571 or ben.honan@suncorp.com.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Annabelle Butler', written in a cursive style.

Annabelle Butler

Executive Manager
Public Policy and Stakeholder Management

Appendix A - Suncorp Response

Executive Summary

Suncorp strongly supports increased mature age workforce participation. Our group's purpose is to 'create brighter futures' and we view mature age workforce participation as positive for workers, businesses, governments, and the community as a whole.

The Issues Paper explores a variety of age-barriers to mature age workforce participation. Our response is focussed on the Occupational Health and Safety and the Insurance and Workers' Compensation chapters. Suncorp's response aims to promote nationally consistent regulation, improved Occupational Health and Safety Strategies and continued operation of competitive, risk-based, insurance markets.

Insurance provides protection against financial loss associated with a wide variety of risks. Several insurance products offered by Suncorp cover work-related risks, including workers' compensation, income protection and personal accident and injury insurance. Before considering regulation of these insurance products, it is first important to consider some fundamental insurance principles.

Insurance Principles

Insurance is a method of sharing financial risks among a community. Policy holders (the community) pay a premium into an insurance pool. This pool is then used to recover those who suffer an unexpected financial loss to their original position. In essence, many people pay for the loss of a few, so that no one policy holder suffers an extreme loss. The sharing of risk across a large number of policy holders allows for extreme financial risk to become an affordable premium.

Insurance companies exist to underwrite risk and manage the insurance scheme. The administration provided by insurance companies ensures a sustainable and fair insurance pool is maintained. Fairness is achieved through underwriting, pricing and claims management. Underwriting is used to determine the level of risk for each policy and, in non-mandatory schemes, is used to only accept reasonable risks similar to others in the pool. Pricing is used to ensure those who have a higher chance of claiming against the pool, pay a higher premium reflective of their risk. Claims management ensures that each policy holder has fair access to the pool and minimises fraudulent claims. These three functions act to ensure that no one policy holder gains an unfair advantage over others.

Risk Underwriting

Risk factors based on age just one part of a broader suite of underwriting and pricing factors, used to help ensure a sustainable and fair insurance market. Statistically, it can be seen that an individual policy holder's age has a strong correlation with risk. This risk can be higher or lower depending on the product type and nature of the risk. Insurance companies therefore use a variety of risk factors, including age, to determine if the risk is acceptable, and if so, what premium should be paid. In this way insurers can ensure integrity of the insurance pool and assure other policy holders of the scheme's fairness.

It is important that risk-based pricing and underwriting is fair for both the individual policy holder and the broader insurance pool. In the Australian insurance industry, fairness is ensured through a combination of anti-discrimination regulation and a highly competitive insurance industry. There are more than 100 licensed insurers in Australia competing to grow market share and profitability.¹ Healthy competition, combined with anti-discrimination legislation ensures that age-based underwriting and premiums are fair and the most

¹ *Insurers Authorised to Conduct New or Renewal Insurance Business in Australia*, APRA, Available: <http://www.apra.gov.au/qi/pages/new-or-renewal.aspx> (accessed: 31/05/2012)

favourable possible market conditions exist. Suncorp supports this approach to regulating age-based underwriting and pricing in the insurance market.

Additional insurance regulation has been considered by a number of Government Inquiries recently with the intention of intervening in insurance markets to improve availability and affordability. Suncorp contends however, that insurance regulation is not the ideal way of improving availability and affordability. Insurance markets reflect risk, where this risk is unacceptably high; insurance will become either unavailable or unaffordable. In response, Government should focus on managing risk and avoid regulation that may impede the efficient and fair operation of insurance markets for all.

Workers' Compensation

All workers should receive appropriate support and be protected against financial hardship associated with sustaining a work related injury. Suncorp supports removal of age-based restrictions in all workers' compensation schemes, and believes that nationally consistent reform is important to improve the way in which all Australian's are protected at work.

It is important to note, however, that extension of coverage would impact workers' compensation insurance premiums. If increased coverage is not offset by effective cost containment measures, employers are likely to experience undue financial pressure associated with increased insurance premiums.

Any changes to workers' compensation should aim to improve the health and wellbeing outcomes of the scheme while minimising potential increases to claims costs and employer premiums. Throughout our direct responses, Suncorp refers to proven cost management methods and is happy to participate in further consultation on managing the insurance related impacts of increase mature age workforce participation.

A significant consideration of an ageing workforce is the growing issue of degenerative conditions, and the subsequent complication of separating these from workplace injuries. This problem will become more prevalent in manual industries and will potentially lead to increased claims management costs, which in turn will impact claims costs and employer engagement with the workers' compensation system.

Suncorp suggests that focussing on OHS risk management, nationally consistent regulation, and clearly defined benefits that account for the current and future circumstances of the injured party, are all proven cost management measures that should be considered in conjunction with increased workers' compensation coverage.

Conclusion

A number of reforms can take place to remove barriers to mature age workforce participation. A holistic approach including a focus on managing workplace risk, improved OHS strategies and reformed workers' compensation legislation is required to ensure mature age workers are appropriately supported in the workplace.

Risk underwriting is an important part of a sustainable and affordable insurance market. Increased regulation of insurance should be avoided in cases where alternative risk management strategies can deliver more effective and affordable outcomes for the community.

Detailed Responses

Question 40

In what ways, if any, can strategic plans developed under the Australian Work Health and Safety Strategy 2012-2022 take account of occupational and safety issues of particular relevance to mature age workers?

A sound Occupational Health and Safety (OHS) strategy should be designed to minimise risk for all employees. OHS risk management relies on a safe work environment combined with safe and healthy procedures for workers. Suncorp considers that there should be no operational difference between the OHS strategy of a mature age worker as compared to a younger worker. OHS strategies should target prevention, risk management and education while catering for the varying abilities and experience of each individual worker regardless of their age.

In support of improved OHS strategies throughout Australia, Suncorp suggests the focus should be on sharing information and innovative strategies. Improved knowledge sharing would allow businesses to overcome concerns, discover new processes and adopt improvements that have already been tested successfully in other work places. The overall aim should be to maximise any particular workers experience, ability and knowledge to minimise the risk of injury.

Question 41

Where is it best to include information about occupational health and safety issues relevant to mature age workers?

Suncorp suggests that education efforts should be focused on best utilising the specific leadership that industry groups offer to create robust communication and support mechanisms designed to improve OHS standards. OHS strategies should not be differentiated based on age as risk management principles are consistent across age groups.

The development of OHS programs in partnership with industry groups should aim to establish systems that can identify attributes such as experience, physical ability and technical expertise, and better utilise these attributes in the workplace. In this way risks such as physical injury are minimised; thus better managing the employees working life course regardless of age.

Question 42

In what ways, if any, do occupational health and safety duties and responsibilities act as a barrier to volunteering for mature age persons?

Suncorp has observed that OHS duties and responsibilities place a compliance burden on volunteering organisations, and may act as a barrier to volunteering. It is important to ensure that volunteers are adequately protected against workplace injury, and to the extent that OHS duties do pose a barrier to volunteering, this barrier should be overcome by reducing administration requirements and providing additional compliance support.

Suncorp notes that the disparate coverage of volunteers under State and Territory OHS legislation appears to form a barrier to mature age volunteering. Currently, only some states define 'worker' to include volunteers, consistency in volunteer coverage regardless of age, would enable more volunteering and reduce the compliance burden on volunteer organisations.

Question 43

What measures involving regulation and monitoring, if any, should be introduced to ensure:

- a) Employers are responsive to the needs of mature age employees; and
- b) Mature age employees are actively involved in developing and implementing such measures?

Suncorp views OHS compliance as equally important for all workers, regardless of age. Employers should be responsive to the needs of all workers and be actively involving all workers in developing OHS measures. If the evidence suggests mature age workers, or any other group of workers, are not being appropriately safeguarded in the workplace, then overall process improvements are required. It is important that all stakeholders are consulted in developing safe workplace practices, including representatives of mature age workers and other employee groups.

Improvements in OHS standards can be monitored through a number of mechanisms including risk audits, claims rate and average claims cost over time. These monitoring mechanisms are already in use, and are provided by Suncorp to number of our large employer clients. A nationally consistent approach to benchmarking and monitoring OHS risk indicators would however improve the consistency and effectiveness of these mechanisms.

Question 45

What are the most effective ways of raising awareness and providing education and training to remove barriers to mature age participation in the workforce and other productive work?

Suncorp suggests that the focus of education and training should be on developing OHS strategies that are based on the principle of capitalising each worker's individual abilities. Businesses should be encouraged to consider the individual worker and develop a work environment (equipment and procedures) to support the safety and health of that worker. The ultimate business goal would be to ensure each worker is performing to their maximum productivity in a healthy and safe environment.

Education and training should focus on the principle of supporting the business through OHS procedures. It is important for the fundamental principles to be age agnostic with different messaging to target specific risk areas, such as the mature age workforce, as required. Given the wide and varied audiences involved in raising OHS awareness, Suncorp currently uses a number of education channels including:

- Educational material distributed online and in hardcopy;
- Training sessions conducted in partnership with the relevant industry body; and
- Onsite inspections and training.

These education channels have been effective and Suncorp encourages a broader government initiative to accelerate education, supported by media activity that highlights serious incidents and the need for change. Employer and Industry groups should be engaged to support specific issues emerging from particular job functions. In particular, it is essential that industries with a high level of manual labour be engaged to improve OHS processes and reduce ambiguity between degenerative conditions and workplace injury.

All communication should demonstrate how OHS improvements benefit both the worker and the business. Business benefits should be specifically referenced in awareness materials including:

- Lower employee downtime and turnover rates;
- Reduced recruitment and training costs;
- More productive and engaged workers; and
- Comparatively lower workers' compensation insurance premiums.

Highlighting financial and performance benefits will ensure that businesses consider OHS as adding value to their business, rather than a government imposed cost.

Question 47

Should volunteers be eligible for workers' compensation at a Commonwealth level or is current state and territory coverage sufficient?

It is desirable to have consistent workers' compensation legislation nationally. The definition of "worker" has only been expanded to include volunteers in some jurisdictions. This creates uncertainty about coverage within volunteer organisations and could be perceived as a barrier to increased workforce participation. In line with the Council of Australian Governments' National Seamless Economy initiative, Suncorp would encourage harmonisation across all jurisdictions.

Consistent coverage for volunteers across jurisdictions may also assist insurers to better price this risk. It is difficult to determine a volunteers earning capacity, as their work outside the volunteer organisation is unknown, and as such pricing for volunteers insurance is community rated. A consistent level of coverage will allow deeper analysis of claims data to determine fairer premiums for volunteers.

Question 48

In what ways, if any, should retirement provisions in Commonwealth workers' compensation legislation be amended? For example, are any of the following approaches appropriate:

- a) removing all age based restrictions;
- b) removing all age based restrictions, but imposing benefit period or amount restrictions; or
- c) increasing the age at which compensation is no longer payable to age 67, except in certain circumstances?

Suncorp supports the removal of all age based restrictions in workers' compensation, with some benefit or amount restrictions. All workers should be protected against financial loss resulting from workplace injury and age should not influence availability of cover.

It is important however, to always consider how increased cover will impact the overall sustainability and affordability of the workers' compensation scheme. To maintain an affordable and sustainable scheme, it is important to regularly review and define benefit periods and amounts, to ensure the scheme is cost effectively supporting injured workers.

Suncorp's claims experience suggests that the needs of injured workers vary with age and life stage. Age can have an influence over the social and economic incentives to remaining in the workforce and as a result, the injured worker's level of engagement in post injury rehabilitation and return to work programs. As such, it is important to have a benefit structure that supports and incentivises injured workers to return to, and remain in, the workplace.

In removing age barriers from workers' compensation, the aim should be to enable greater workforce participation without unduly impacting the sustainability and affordability of workers' compensation schemes nationally. To achieve this aim, Commonwealth and State benefit calculation algorithms should be reviewed and amended to account for the concept of including the workers' future circumstances.

Question 49

What other changes, if any, should be made to the Commonwealth workers' compensation scheme to remove barriers to mature age participation in the workforce or other productive work?

Suncorp has no further comments on the Commonwealth workers' compensation scheme, however highlights that our recommendations are consistent across both Commonwealth and state-based workers' compensation schemes.

Question 50

In what ways, if any, do age-based limitations and higher premiums for insurance policies for mature age persons act as a barrier to participation in the workforce or other productive work?

The Issues Paper raises the potential for insurance products to influence mature aged workforce participation in paragraphs 283 through 297. Specifically, income protection, travel insurance and insurance in the workplace, are raised as three potential areas where age barriers may exist. Suncorp Life, Commercial Insurance and Personal Insurance brands offer these insurance products.

The extent to which age-based limitations and premiums influence mature age workforce participation will vary on the nature of each particular product. In general terms however, Suncorp has not observed that age-based limits and premiums have any noticeable influence over workforce participation rates.

Workplace insurance is generally arranged by the employer and is underwritten and priced based on industry risk factors. The influence that age-based demographics have on workplace insurance is more reflective of the industry, rather than the age profile of each individual business.

Insurance policies purchased at an individual level, such as income protection, may operate with age-based limitations and premiums. In the unlikely event that the underwriting or pricing of insurance products does negatively influence workforce participation, Suncorp would contend that this influence is likely to be appropriate in the circumstances.

Insurance underwriting and pricing generally reflects level of risk experienced in the market. In circumstances where insurance cover is either unavailable or unaffordable, this can be seen to indicate that the acceptable level of risk the community is willing to face has been exceeded. In this case it is important to consider overall risk reduction which will generally lead to more affordable and sustainable insurance markets.

Further product specific information is provided below.

Income Protection

Income Protection (IP) insurance is traditionally purchased direct by the worker, or by the worker's superannuation fund on their behalf. IP insurance provides replacement income to workers incapacitated by injury or illness. As IP insurance is purchased directly by the worker or volunteer, age-based underwriting and pricing applies.

Suncorp currently offers IP insurance up to a standard age of 65. In some low risk occupations renewal of cover is available up to age 70. In all cases the maximum entry age for cover is 62. Suncorp has not observed that these age limits have a noticeable influence over workforce participation.

Overall demand of IP insurance in Australia is low across all age groups. IP insurance is not required by law, and the majority of Australians (69%)² choose not to insure their income. Suncorp believes the consistently low take-up rates of IP insurance indicates that most Australian's are willing to work without IP insurance and the availability of cover has marginal (if any) influence over workforce participation.

Notwithstanding the above, Suncorp is committed to increasing the maximum age of cover as soon as practicable. Many Australians face significant financial hardship when forced to rely on welfare payments significantly below their usual income, and Suncorp aims to minimise this hardship through increased availability and uptake of insurance.

Suncorp regularly reviews the risk factors associated with IP insurance, to ensure our underwriting and pricing accurately reflects market conditions and is compliant with regulatory requirements. Recent review of

² *Investigating Income Protection Insurance in Australia*, TNS/IFSA, July 2006

Suncorp's age limits has shown that IP insurance is sustainable in some low risk occupations, and as a result, cover has been extended to age 70. These occupations are traditional 'white collar' professions with relatively high numbers of mature age workers and low risk work environments. The combination of high numbers of workers and low risk environments allows for the provision of a fair and sustainable insurance pool.

In addition to regular review of traditional IP insurance, Suncorp considers alternative products that may be more suitable under the circumstances. Our Apia brand *Injury Support Plan* is an example of an alternative product specifically designed to cater for mature age Australians. This product offers defined benefit payments for nominated injuries up to the age of 75. This type of product is more sustainable than traditional IP insurance because illness is excluded. The coverage of injury only allows for lower premiums which creates a sustainable insurance pool.

Suncorp will continue to regularly review our age-based limits and premiums to ensure our product offering is fair and sustainable. In the context of this particular review, Suncorp highlights that IP insurance availability is unlikely to have a significant influence over mature age workforce participation.

Travel Insurance

Suncorp does not believe that the availability or affordability of travel insurance influences mature age workforce participation. Insurance for work related travel is typically provided under a corporate travel policy purchased by the employer. Suncorp does not provide group corporate travel insurance, but does provide individual travel insurance policies for both private and business travel.

Suncorp's Apia brand offers individual travel insurance specifically targeted at mature age Australians. There is no upper age limit for Apia travel insurance and the average written premium for those over 65 is below \$250. Due to community concern regarding the availability of travel insurance, the Insurance Reform Advisory Group (IRAG) is currently investigating travel insurance and if there is any need for reform.

Mature age advocacy groups have reported anecdotal feedback to suggest that mature age travellers are experiencing difficulty obtaining affordable travel insurance, despite a number of insurers offering specialised products for this market. IRAG is conducting further investigation to determine and resolve the cause of this disparity between actual availability and perceived availability.

Suncorp does not believe concurrent review by the ALRC is necessary. However, we do encourage the ALRC to bring any age-related concerns regarding travel insurance to the attention of the Insurance Council of Australia so that the insurance industry can continue to assist resolving these concerns.

Question 51

In what ways, if any, should the insurance industry be regulated to address barriers to mature age participation in the workforce or other productive work?

For example:

- a) Should insurance industry Codes of Practice be amended to encourage or mandate the removal or extension of age-based limitations on insurance policies?
- b) Should a regulatory framework be introduced to ensure that age-based limitations on insurance policies are appropriate?

Suncorp does not believe that regulation is needed to encourage the insurance industry to address age barriers. The insurance market is highly competitive and insurers continuously reassess risk. As the population ages, it is in insurer's commercial interest to manage emerging risks, remove barriers, and bring improved products to market.

The number of mature age workers has grown significantly over the past decade. In 2001, there were 274,000 people aged 60-64 and 90,000 people aged 65-69 in the workforce. In 2011, there were 634,000 people aged 60-64 and 242,000 people aged 65-69 in the workforce. Mature age workers represent a significant market opportunity for insurer's and Suncorp is confident competition will ensure concerns surrounding age-based limitations and premiums are resolved as soon as practicable.

Suncorp believes that competitive pressure has already removed the vast majority of age barriers in insurance. Suncorp's Apia brand is specifically targeted at mature age Australians and offers a variety of products to support workforce participation. For example, the Apia Injury Support Plan, a form of personal accident and injury insurance, is available for applicants up to the age of 75.

Remaining age barriers are a result of low market demand and supply difficulties, which will be resolved as increasing numbers of Australians work past the official retirement age and general health and wellbeing improves. Remaining age-based insurance barriers do not pose a significant barrier to mature age workforce participation and the cost increased regulation is likely to exceed the potential benefits.

Code of Practice

Suncorp supports the removal of age-based limitations on insurance policies, but does not believe that the General Insurance Code of Practice (The Code) is an appropriate tool to mandate or encourage this. The Code is designed to ensure that the insurance industry continues to raise the standard of service we provide to our customers.³

The Code sets out the minimum standard of service we aim to provide to our customers when they purchase a policy, make a claim, suffer from natural disaster or lodge a complaint. The bulk of the Code's provisions outline timeframes and methods for ensuring high quality customer service. As such, Suncorp suggests inclusion of product availability and affordability promises in a customer service code would be counterintuitive.

The Code is regularly reviewed and to demonstrate the industry's commitment to quality customer service, the planned 2013 independent review has been brought forward to this year. Suncorp encourages the ALRC to raise any desired code changes with the independent code reviewer, Mr Ian Enright, so that all feedback can be considered throughout the review.

Regulatory Framework

Suncorp submits that the existing provisions of the *Age Discrimination Act 2004* are sufficient to ensure age-based limitations and premiums are fair and equitable. The Australian Human Rights Commission, or its president, is empowered to at any time require disclosure of the source actuarial or statistical data used by an insurer to underwrite or price based on age.

The Issues Paper raises that data used by insurers is not publicly available, and considers regulation to require publication of this data through the General Insurance Code of Practice. Suncorp considers that the current requirements of the *Age Discrimination Act* sufficiently balance the need for age-based discrimination in fair insurance markets, against the need to appropriately justify age-discrimination.

To the extent that further regulation of the insurance industry is required, this should be achieved through existing frameworks. Importantly, actuarial and statistical age data is commercially sensitive and is an Insurer's intellectual property used to offer competitive and fair premiums.

The publication of this data would reduce age-based competition by allowing all insurers access to their competitors internal actuarial and statistical data. Suncorp does not believe reduced age based competition is in the ultimate interests of mature age Australians. In addition, age data is commonly obtained from a variety of

³ See: Introduction (1.1), General Insurance Code of Practice

sources and is therefore difficult to interpret. Age data is used in conjunction with an insurer's commercial expertise to determine underwriting and pricing. Presenting data without the underlying knowledge of its meaning or intended use is likely to have limited value for the community.

It is appropriate for insurers to be required to justify their age-based underwriting and pricing and Suncorp would encourage use of the existing regulatory framework, where necessary, to achieve this.

Competition

Risk based underwriting is vital to insurance competition. The ability to target products and premiums to specific demographics – including age-based demographics - allows insurer's to bring competitive offers to market. Regulation or restriction on the use of age as an underwriting factor, above what is already in place under anti-discrimination legislation, would significantly reduce competition in the market and lead to poor market performance.

Reduced competition will ultimately lead to standardised insurance products that do not fully meet the changing demands of the mature age workforce. In addition, insurers faced with burdensome regulatory will be less likely to adapt to the ageing workforce by innovating and bringing new products to market.

Suncorp opposes age-based regulation of insurance markets. The Government should place priority on improving competition by increasing demand for insurance products. This can be achieved through financial education, increased information provision (both to consumers and insurers) and encouraging insurance uptake through tax rebates.

Question 52

What other changes, if any, should be made to insurance laws to remove barriers to mature age participation in the workforce or other productive work?

Suncorp does not view any current general insurance legislation as a barrier to mature age workforce participation. With regard to workers' compensation, Suncorp highlights that increased mature age workforce participation is likely to lead to higher workers' compensation premiums for some employers unless benefits and limits are clearly defined.

To minimise the need for premium increases and maintain affordability for employers, Suncorp suggests the Commonwealth and state governments consider:

- Improving benefit calculations to better reflect the injured workers current and future circumstances;
- Introducing benefit caps in some circumstances to increase certainty in the scheme and manage increasing claims costs;
- Longer term scheme structure, including the use of private insurer capital, pricing and claims management expertise to reduce government capital requirements and improve market competition and operational efficiency.

Through removing the real and rectifying false perceptions about barriers to mature age workforce participation, Government can achieve increased workforce productivity, and businesses will benefit from a more experienced workforce and a more efficient compensation scheme.