



5 April 2012

By email: [default.super@pc.gov.au](mailto:default.super@pc.gov.au)

Default Superannuation Funds in Modern Awards  
Productivity Commission  
LB2 Collins Street East  
Melbourne Vic 8003

Attention: Yvette Goss

We refer to the Public Inquiry into Default Superannuation Funds in Modern Awards.

REI Super is pleased to provide our views to the Commission on this topic.

For ease, we have responded in the same order as the Inquiry's terms of reference.

We look forward to the findings of the Commission.

Yours sincerely

Mal Smith  
CEO  
REI Super



### **Awards and enterprise agreements**

*For what proportion of the workforce do the default superannuation provisions in awards directly apply?*

**The real estate industry is characterised by a large number of independent SMEs, and these employers presently use a broad range of employment instruments. We estimate default provisions apply to in excess of 50% of the workforce in the property industry.**

*To what extent do default superannuation provisions in awards influence which superannuation fund (or funds) is listed in enterprise agreements?*

**This information provides a strong guidance to employers.**

*Does the superannuation fund nominated in an enterprise agreement in any way impact on the assessment of the 'better off overall' test?*

**No.**

### **Superannuation funds listed in modern awards**

*How do employers currently choose between funds when there is more than one default fund listed in an award?*

**Businesses will often choose a fund based on prior experience with a fund if they have such experience, or alternatively, based on the fund which suits the majority of their employees. In many cases they will seek guidance from their employer organisations, such as the state Real Estate Institutes, Real Estate Employer's Federation, or Real Estate Institute of Australia.**

*How do employers currently choose a fund when there is no default fund listed in an award?*

**N/A in our industry, as either the Real Estate Modern Award and /or Clerical Modern Award provide coverage.**

*To what extent have employers made use of the grandfathering clause as opposed to choosing a fund from those listed in the relevant modern award?*

**We do not have reliable data on this point.**

### **A new default investment product: MySuper**

*What are the anticipated effects of MySuper on the superannuation industry in the short and long term, particularly in relation to the pace and extent of consolidation.*

**Several commentators have expressed views on this. REI Super also expects to see further rationalisation and consolidation of funds.**



**REI Super supports the MySuper reforms, as they will help raise standards, improve governance, drive transparency, and produce better member outcomes.**

**That said, as various commentators have observed, the scope of the MySuper reforms to the superannuation industry is quite significant. The challenge for the industry is to get clarity through final legislation now, so that the high level planning can be replaced by detailed operational work, necessary to support MySuper. A number of industry commentators have noted that there is only a short window between legislative certainty and the commencement of the new MySuper regime, which will put pressure on service providers to adapt operational business models.**

#### **Are the criteria for MySuper sufficient?**

Are the criteria required of MySuper products sufficient for the selection and ongoing assessment of superannuation funds eligible for nomination as default funds in modern awards? If so, why? Does the picture change over time, as the MySuper reforms drive change and consolidation in the industry?

**We believe these are adequate criteria for selection and ongoing assessment of funds, and this is unlikely to change with the passage of time.**

*Is there a case for introducing a set of criteria over and above those required for MySuper products for funds to be eligible for nomination as a default fund in modern awards?*

**No.**

#### **Selection criteria for default superannuation funds in modern awards**

If there is a case for requiring superannuation funds to meet criteria additional to those specified for MySuper products to be nominated as default funds in awards, the additional criteria will need to be determined. Drawing on the terms of reference, this section raises issues about some of the criteria that could be used.

#### **Investment strategy and funds management**

##### **Investment strategy**

*To what extent do workers covered by different awards have different investment needs? Should any such differences be taken into account in the selection of default superannuation funds for inclusion in awards? If so, how?*

**Investment requirements are not driven by the different awards or occupation, but rather driven by the risk appetite, financial objectives, age etc of the members.**



*Should the investment strategy, investment return target and level of risk of the default investment option be factored into the selection of default superannuation funds for inclusion in awards? If so, how?*

**No, these factors will be covered in the Fund's successful completion of the MySuper licensing process with APRA.**

*Should lifecycle investment strategies be considered? If so, how?*

**This should be a design decision for each Fund's trustee board based on the needs and demographics of their membership.**

### **Fund expertise and performance**

*Should a fund's investment management expertise be factored into the selection of default superannuation funds for inclusion in awards, and if so, how?*

**Once again, this will be covered via the licensing process with APRA, as they are best placed with their risk assessment methodology to ensure the appropriate investment expertise 'hurdles' are met.**

*How relevant is a fund's past net performance as an indicator of its potential future performance? What weight, if any, should be placed on the past performance of a fund in assessing its suitability for inclusion as a default fund in awards?*

**Past performance is an imperfect guide to future performance. Persistent underperforming entities however, could potentially be screened out via the MySuper licensing process.**

### **Fees**

*Should fees be factored into the selection of default superannuation funds for inclusion in awards and if so, how? For instance, are there circumstances in which paying higher fees could serve the interests of members of default funds? Does this differ across industries? Should maximum fees be set for funds that are selected for inclusion as default funds in awards?*

**The MySuper licensing process already addresses most of the fee issues, so maximum fees should probably not be set. There may be a case for example for higher investment fees if active investment management produces higher net performance to members. The MySuper licensing process and its improved transparency requirements on fees should assist members in future.**

### **Insurance and other member services**

**Life and total and permanent disability insurance**



*Should default superannuation funds be required to provide maximum or minimum levels of life and TPD insurance? How should the cost of this insurance be factored into the selection of default funds for inclusion in awards?*

**REI Super supports the concept of minimum cover being provided, on a 'group insured' basis, commensurate with the likely demographic characteristics of the workforce covered by that award. Such arrangements should, however, allow members to opt out if they wish.**

*To what extent do workers covered by different awards have different needs for life and TPD insurance? How should any such differences be factored into the selection of default superannuation funds for inclusion in awards?*

**Members covered in different awards will have different occupational remuneration arrangements, and hence may have different cover needs. Modern responsive super funds (through their actual claims experience) are likely to have good market data on appropriate levels of default cover to provide to their members.**

#### **Income protection insurance**

*Should income protection insurance be factored into the selection of default superannuation funds for inclusion in awards and, if so, how?*

**Its availability could be considered a factor, but it is a second order issue.**

#### **Other member services**

*Should the scope and cost of the member services offered by a superannuation fund be factored into the selection of default superannuation funds for inclusion in awards and, if so, how? Should default funds that are selected for inclusion in awards be required to provide a particular standard of service?*

**This is probably best included in the MySuper licensing regime.**

*To what extent do workers covered by different awards have different service needs? Should any such differences be taken into account in the selection of default funds and, if so, how?*

**This is probably best included in the MySuper licensing regime.**

#### **Governance**

*What impacts are the additional trustee duties likely to have on the performance of MySuper products?*

**We would expect little or none, as the new prudential standards will just codify many of the present governance practices in place anyway.**

*Beyond the Stronger Super reforms, are there any particular aspects of fund governance that should be considered in the selection of default superannuation funds for inclusion in awards?*

**No.**

*Would being selected as a default fund in an award affect fund governance and operations?*

**No it should not.**

### **Scale**

*Is there an ideal 'fund size' for default superannuation products?*

**No, scale is only one factor that determines fund success and meeting members' needs.**

*How do factors like the ability to market and communicate with industry participants impact on the question of scale?*

**Some of these activities contain a fixed cost impact, and therefore prima facie their effectiveness is inversely related to scale. However, technology greatly enables communication. Furthermore, funds can also use the scale and capabilities of their service providers to assist with the communication message.**

*Is there a need for fund scale to be factored into the selection of default superannuation funds for inclusion in awards beyond that already implicit in the MySuper rules?*

**We believe this is adequately addressed in the MySuper licensing process and ongoing 'scale test'.**

*Is there a clear relationship between fund scale and returns for members?*

**The evidence on this is mixed, since larger mandates may carry lower investment fees to the funds, but investment decisions may be more constrained by operational capacity limitations. And 'scale' may be obtained either by the Fund, or by the size of the investment managers used.**

### **Other criteria**

*Are there any other criteria that should be used to assess whether a fund is suitable for inclusion in modern awards?*

**Yes certainly. We strongly believe funds working in industries which have close links to relevant industry stakeholders – employer and member organisations are well placed to meet members' needs. REI Super, for example, is endorsed by the REIA as a long term industry partner in this regard.**

**We would also argue that industry (or 'profits to members') funds have demonstrated over an extended period that they are acting in the best interests of their members, and**

**this may not always be the case in the ‘for profit’ sector, where shareholder returns and selling additional financial or banking products to the membership may adversely influence such entities acting in members’ best interests.**

*Are there net benefits to having additional criteria?*

*What would be the costs, the benefits and the net benefits of introducing a set of criteria over and above those already set out for MySuper products for funds to be eligible for nomination as a default fund in modern awards?*

*Who would incur the costs?*

*Who would the benefits accrue to? Would they be confined to those for whom a modern award applies? Or would they flow through to other MySuper products and/or choice products to drive widespread improvement in the superannuation industry? Would they flow through to taxpayers by lowering the burden on public funding for pensions?*

*Would the criteria need to vary by industry?*

*Are these criteria needed now, or would it be better to wait to see the full effects of MySuper on the industry? If so, how long might this take?*

**We suggest it may be difficult to predict at this stage whether additional criteria are needed. It may be better to defer consideration of these questions until the MySuper regime has been operating for two to three years. In any case, the ongoing consultative process via FWA will provide an opportunity for relevant industry groups to identify issues as they emerge.**

### **Implementation issues**

Once criteria are chosen for the selection and ongoing assessment of superannuation funds eligible for nomination in modern awards — be they MySuper criteria, or an additional set of criteria — another important consideration is the process by which those criteria are implemented.

### **Transparency and contestability**

*Are transparency and contestability desirable features of a default fund selection process?*

**Yes**

*Is the current process for listing default superannuation funds in awards transparent? Is it competitive? Is there a level playing field between industry and retail funds? Is there a level playing field between domestic and international funds and should there be?*

**We believe so.**

*If not, what are the barriers to transparency and contestability? What are the effects of these barriers on member outcomes?*

*Will expected superannuation fund consolidation have any impact on the current process for selecting default superannuation funds? Will it affect competition in the superannuation and default superannuation markets? Is it expected to improve performance and cost effectiveness? If so, how?*

**We believe the pace of merger activity will be such that this factor could be incorporated into future modern award updates, based on consensus positions of employer and employee groups.**

### **Trade-offs between criteria**

Assessing funds against a given set of selection criteria will not necessarily provide a clear ‘winner’ or ‘winners’ — a fund or funds that has superior performance against every criteria. Trade-offs in the assessment against the criteria are likely to be required.

*When considering whether a fund is eligible for nomination as a default fund in a modern award, how should its overall performance be assessed?*

*How should trade-offs between different eligibility criteria be made? Should different weights be placed on certain criteria?*

*Should there be a ‘two tier’ process where a fund must meet certain eligibility criteria, while other criteria are optional?*

*A target number of funds?*

*Should all funds deemed eligible for nomination as a default fund in a modern award be listed? If so, why? How would this affect the administration costs for employers choosing one fund among those listed in awards?*

*Should there be a target number of default funds listed in modern awards? If so, why?*

- *What number of funds should be targeted? Should this number differ by industry? If so, on what basis?*
- *How would this affect the administration costs for employers choosing one fund among those listed in awards?*
- *Who should make the decision to restrict the number of funds in cases where more than the limit are found to be eligible, and how should this decision be made?*
- *Should the same criteria and trade-offs between criteria as for eligibility be applied, or should they differ?*



*How should expected consolidation in the superannuation industry be taken into account? What would happen in the event of product mergers?*

**We have no detailed commentary to give on these particular questions, as the answers may depend on the particular industry. We would reiterate the importance of consensus between employer and member organisations in the relevant industry is important.**

*Should some type of grandfathering clause remain in modern awards? What are the advantages and disadvantages of retaining such a clause?*

**Yes, grandfathering is practical.**

### **Administrative issues**

What should be the process for applying the criteria for the selection of superannuation funds eligible for nomination as default funds in modern awards?

**As noted above, the MySuper process provides the first filter. Beyond that having a consent position between relevant industry employee and employer organisations provides a strong signal that fund is suitable as a default.**

*What would be the steps involved in the process?*

- *Is there a case for an organisation other than FWA to assess the eligibility of funds against any selection criteria?*

**We do not believe so.**

- *What should be the role of the industrial parties to the awards? What should be the role of FWA?*

**No change to the current processes.**

- *What would be the administrative and compliance burden of such a process on employers and their representatives, unions, superannuation funds and FWA?*

**Changes could be costly and time consuming.**

- *Is there any international experience to draw from in designing the process?*

**We do not have a particular view on international experience.**

- *How might MySuper products that are tailored to the needs of particular large employers affect the selection of default funds eligible for nomination in awards?*

**We suggest all would be treated the same.**



*If funds currently listed in awards were unable to meet a stricter set of criteria, what would be the consequences for members, employers and their representatives, unions, superannuation funds and FWA?*

**We suggest funds meeting the MySuper licensing criteria should be well placed to continue to meet the required criteria.**

*What would happen in the event that a listed fund had its MySuper product license revoked by APRA for no longer meeting the MySuper requirements?*

**We suggest APRA's existing and future compliance regime is well placed to prevent this, but obviously it would be an adverse event for all concerned.**

#### **Ongoing assessment of eligibility**

The terms of reference state that the criteria need to cover both the selection and ongoing assessment of eligibility.

*How frequently should eligibility be assessed?*

*Who should perform this assessment?*

*Should the assessment process differ from the initial selection process? If so, in what way?*

*How should the assessment account for consolidation in the industry?*

*What would be the consequences of funds transitioning in and out of meeting the eligibility criteria for employers, members, the funds and FWA? Is there a way to manage this transition?*

**We have no particular views on the above, other than employer and employee representative organisations would be well placed to provide input for their respective industries.**

*Should the criteria for fund eligibility themselves be reviewed or changed over time? If so, how often and by whom?*

**We do not believe this would be required, so unless evidence to the contrary emerges.**

#### **Choosing a default fund among those listed in modern awards.**

*Are employers best placed to choose one default fund among those listed in awards?*

**Yes.**



*If so:*

*• do employers need assistance in choosing between funds listed in awards? What type of assistance do they require and who should provide it?*

**Assistance can be provided via employer organisations – in our industry’s case such as REIA and REEF or relevant member organisations.**

*• is some mechanism required to ensure that employers act in the best interests of their employees when making this decision? If so, what?*

**We do not believe so.**

*If not, why not? Who or what other organisation could be better placed to make this choice? What process should be followed?*

**No opinion.**

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MELBOURNE VIC 8003

Attention: Yvette Goss

We refer to the current Productivity Commission Public Inquiry into Default Superannuation Funds in Modern Awards.

The Real Estate Institute of Australia (REIA) represents around 80% of real estate agencies and is an important element of the broader property and construction sector, which makes a significant contribution to Australia's social climate and economic development. The real estate profession employs approximately 77,000 persons and contributes \$300 billion annually in economic activity. The REIA's members are the State and Territory Real Estate Institutes, through which around 80% of real estate agencies are collectively represented.

REI Super is the default fund under the Real Estate Modern Award and as such covers over half of the workforce in the property industry.

REIA supports REI Super's submission to the Inquiry, in particular the proposed reforms which should provide improved outcomes for the real estate profession.

Yours sincerely

Amanda Lynch  
CEO  
REIA