



## **The Transport Industry Superannuation Fund (TIS Fund)**

### **Response to Default Superannuation Funds in Modern Awards Inquiry**

#### **Limited to:**

- Current Arrangements for Awards, and Enterprise Agreements;
- The Current process for nominating default funds
- Criteria for MySuper

**30 March 2012**

# CONTENTS

Page 3	EXECUTIVE SUMMARY
Page 4	RECOMMENDATIONS <ul style="list-style-type: none"><li>• Awards and Enterprise Agreements</li><li>• The current process for nominating Default Funds in modern awards</li><li>• Other Criteria</li></ul>
Page 5	HISTORICAL BACKGROUND
Page 6	THE TIS FUND VIEW ON MODERN AWARDS & MYSUPER
Page 7	MOVING FORWARD <ul style="list-style-type: none"><li>• Application for Inclusion in Modern Awards</li><li>• MySuper</li></ul>
Page 8	CONCLUSION
Page 8	REFERENCES

## EXECUTIVE SUMMARY

The Transport Industry Superannuation Fund (The TIS Fund) is a long standing industry based Superannuation fund (established on 1 July 1989) which represents a significant number of Contributing Employers and Members. Our Employers and Members are represented nationally, with more than 50% being long distance truck driving operations. As well, The TIS Fund, its Trustees and members have had a long association with National and State Transport Associations including National Road Transport Operators Association “NatRoad”, Australian Trucking Association “ATA”, and Transport Women Australia Limited (TWAL).

The TIS Fund supports the allowance of all MySuper Funds as Default Super options, and believes there is no net benefit to designing criteria over and above this, or requiring extra supervision by Fair Work Australia, when MySuper Fund options meet specific criteria already and provide a simple solution.

The TIS Fund agrees that the move towards simpler, clearer ‘Default Super’, particularly using MySuper fund options in Modern Awards will benefit all Members and their contributing Employers. This outcome, is of course dependent on ensuring the process does not become overcomplicated, or open to misinterpretation by the main parties to Modern Awards who may be conflicted and determined to influence the outcome.

The current process for nominating default funds in modern awards limits the ability of many superannuation funds to apply to be added to the default superannuation fund listed in the applicable award. In particular, given the representatives of the main parties to the award must consent (the existing default superannuation funds), gaining inclusion as a default superannuation fund is difficult.

During the historical development of Modern Awards by the Industrial Relations Commission, and in particular, the development and decisions regarding the process of Default Superannuation Fund inclusion in modern awards left much to be desired, and outcomes have not been in the spirit of recent superannuation legislation.

The purpose of this Response on Default superannuation in modern awards by the Trustees of the Transport Industry Superannuation Fund is to:

- Provide recommendations and feedback from the basis of an:
  - Interested superannuation fund party; but also as
  - One of the main parties affected both by the Road Transport (Long Distance Operations) Award 2010, and the Road Transport and Distribution Award 2010;
- Provide historical background around the Transport Industry Superannuation Fund’s (TIS Fund) involvement in the various Transport Awards (past and present), and its involvement in Roads, Transport and Clerks Awards;
- Outline The TIS Funds view regarding the inclusion of Default Super Funds in Modern Awards, in particular MySuper;
- Document our concerns regarding the impact of the perceived preferential treatment and lack of transparency, fairness in the competitive landscape that restricts the number of designated ‘Default Funds in the Road Transport and Distribution Award 2010’, Road Transport (Long Distance Operations) Award 2010, and Clerks - Private Sector Award 2010 and the subsequent impact on our current and prospective contributing members, and Employers.

## RECOMMENDATIONS

### Awards and Enterprise Agreements.

We recommend that any superannuation funds which qualify as a MySuper fund automatically be eligible as a default superannuation fund in the relevant award, and in particular the Road, Transport and Distribution Award 2010, Road Transport (Long Distance Operations) Award, and Clerks - Private Sector Award 2010, the main three awards which affect the transport industry.

### The current process for nominating default funds in modern awards

We recommend that to simplify the modern award process going forward, and provide for a transparent, fair and competitive environment:

- MySuper funds be eligible for nomination as a default fund in modern awards, with no separate set of criteria over and above those required for MySuper funds;
- That the requirement for specific Default Superannuation Funds to be listed in modern awards be removed. That moving forward, the Superannuation Clause allow any APRA approved MySuper fund as the default superannuation fund;
- That Fair Work Australia only confirm that the superannuation clause is in place for a MySuper fund to be nominated as the default superannuation fund in the relevant award, and no longer assess default superannuation variations or inclusions to modern awards;
- The assessment of eligibility and approval as a MySuper Fund be completed by APRA;
- The criteria required of MySuper products be deemed sufficient for the selection and ongoing assessment of superannuation funds eligible for nomination as default funds;
- There is no need for increased or extra education for employers where MySuper funds are used as Default Superannuation Funds, particularly as MySuper funds will have equal access to options, benefits and facilities, similarity of process, product range, fees and a single investment strategy.
- The use of MySuper Funds in Enterprise Agreements will negate the need for an assessment of the 'better off overall' test due to their need to meet simplification and standardisation criteria when nominating a superannuation fund in the Enterprise Agreement.
- Using MySuper Funds with standard Core services will ensure members deposits are working at all times for their benefit.

### Other Criteria

- We recommend and request that the historical, associations, and specialised community relationships and needs of our members be taken into account when determining relevant superannuation funds, including MySuper Funds, to be included in Modern Awards, in particular, the Road Transport and Distribution Award 2010, and Road Transport (Long Distance Operations) Award 2010, and Clerks - Private Sector Award 2010;
- We recommend there be no requirement or allowance for grandfathering, as based on the above recommendations, as with the use of a MySuper product in modern awards, this would not be required. Grandfathering would create further confusion, and is at odds with the principle of setting up MySuper. It is up to the Superannuation Funds concerned to meet MySuper standards or criteria;
- We recommend that where a Superannuation Fund does not, or cannot meet MySuper standards or criteria, a timeframe is provided to make the necessary changes or allow consolidation;

## HISTORICAL BACKGROUND

The Transport Industry Superannuation Fund (The TIS Fund) commenced on 1 July 1989. The fund was started by members of the National Transport Federation, to provide an alternative to Industry funds for employers and their employees in the Transport Industry.

Since the Funds inception on 1 July 1989, the TIS Fund has been a strong advocate of providing superannuation alternatives for employees, in particular, 'Choice of Fund'. The Trustees of the Fund have always acted in the best interests of members by ensuring the Fund has been run conservatively, and as a non-profit organisation, all profits are used to benefit members. More specifically, the Fund has continued to retain a conservative investment strategy together with the provision of Core member benefits, rather than provide a plethora of expensive ancillary services.

More recently, The TIS Fund has supported the announcement of Stronger Super, and the implementation of MySuper products. In particular, The TIS Fund supports the use of MySuper Funds to accept default contributions, and be listed as default funds in Modern Awards.

Pre 12 September 2008 and the commencement of modern awards, State Awards did not require Default Super Funds to be included. The only Federal Award, "Transport Workers (Long Distance Operations) Award", a 'Respondent' Award, included a list of member Transport companies applicable to it, however did not require the nomination of specific Default Superannuation Funds within the Award, nor was the inclusion of a Default Superannuation Fund deemed necessary by the main parties to the Award.

Historically, The TIS Fund has been accepting contributions from sponsoring employers and their employees within the Transport Workers (Long distance Operations) Award since its commencement in 1994. Many of our original employers and members still remain with the Fund to this day. Given the high mobility in working arrangements of our membership, this is evidence of the strong level of personalised service, and overall loyalty of our members.

The TIS Fund is a fund to which a significant number of existing Employers were, on 12 September 2008, making contributions for the benefit of employees who, at that time, were covered by awards, which were predecessors to the current Road Transport and Distribution Award 2010, and Road Transport (Long Distance Operations) Award 2010.

Although a small fund, The TIS Fund has a significant number of contributing with over 60% making use of the grandfathering clause, in their relevant modern award. The Trustees of the TIS Fund work in, and for the Transport Industry, and actively relate to our membership on a daily basis. The fund is active in its compliance, and has kept its returns up while keeping fees low.

The Trustees do not believe that a superannuation fund needs to be huge to be viable, evidenced by our annual returns (Refer to References - Annual Report 2011). What the Fund does well is meet the needs of its Transport Industry employers and employees through its strong affinity with members, and knowledge of Transport. The Fund meets member's needs in a cost effective and structured way, which larger industry default superannuation funds cannot do due to their size and diseconomies of scale.

## THE TIS FUND VIEW ON MODERN AWARDS AND MYSUPER

In the case of Transport employees, the main awards affecting them include the Road Transport and Distribution Award 2010, Road Transport (Long Distance Operations) Award 2010, and Clerks - Private Sector Award 2010.

With the advent of Modern Awards, any employee who did not choose a superannuation fund for their contributions, or whose Employer was not already making superannuation contributions for the benefit of their employees before 12 September 2008, must use one of the Superannuation Funds nominated in the respective Awards noted above.

In the case of the Road Transport and Distribution Award 2010, clause 21.4 states:

- Unless, to comply with superannuation legislation, the employer is required to make the superannuation contributions provided for in clause 21.2 to another superannuation fund chosen by the employee, the employer must make the superannuation contributions provided for in clause 21.2 and pay the amount authorised under clause 21.3(a) or (b) to one of the superannuation funds or its successors:
- 21.4(a) provides only for the following default superannuation funds:
  - a. TWU Super;
  - b. OAMPS Super Fund;
  - c. Tasplan;
  - d. SunSuper;
  - e. AustSafe Super; or
  - f. Any superannuation fund, to which the employer was making superannuation contributions for the benefit of its employees before 12 September 2008, provided the superannuation is an eligible choice fund.

In the case of the Road Transport (Long Distance Operations) Award 2010, Clause 19.4 states:

- Unless, to comply with superannuation legislation, the employer is required to make the superannuation contributions provided for in clause 19.2 to another superannuation fund that is chosen by the employee, the employer must make the superannuation contributions provided for in clause 19.2 and pay the amount authorised under clauses 19.3(a) or (b) to one of the following superannuation funds:
  - a. TWU superannuation Fund; or
  - b. Any superannuation fund, to which the employer was making superannuation contributions for the benefit of its employees before 12 September 2008, provided the superannuation fund is an eligible choice fund.

In the case of the Clerks - Private Sector Award 2010, clause 24.2 states:

- Unless, to comply with superannuation legislation, the employer is required to make the superannuation contributions provided for in clause 24.2 to another superannuation fund chosen by the employee, the employer must make the superannuation contributions provided for in clause 24.2 and pay the amount authorised under clause 24.3(a) or (b) to one of the superannuation funds or its successors:
- 21.4(a) provides only for the following default superannuation funds:

- g. CARE Super;
- h. Australian Super;
- i. SunSuper;
- j. HESTA;
- k. Statewide Superannuation;
- l. TasPlan; or
- m. Any superannuation fund, to which the employer was make superannuation contributions for the benefit of its employees before 12 September 2008, provided the superannuation is an eligible choice fund.

As evidenced above, the Transport Industry Superannuation Fund was effectively and unfairly “Locked Out” of the process, with the advent and negotiation of modern awards.

Although being one of the main parties affected, the interests and needs of sponsoring employers, and members were substantively overlooked. Post 12 September 2008, the TIS Fund has been unable to accept default superannuation contributions from new Employers, and is only able to continue to work with its existing employers.

This has been particularly significant for our employers and members who are part of the Road Transport (Long Distance Operations) Award 2010, and are also members of our fellow community organisations, our historical partners over the last twenty years.

## **MOVING FORWARD**

### **Application for Inclusion in Modern Awards**

The National Road Transport Operators Association “NatRoad”, an industry association that is the largest of its type in Australian road transport. As an association with industry “Standing” in the Transport Industry, NatRoad has made applications to vary a modern award under the 2012 review. These variations were lodged on 8 March 2012 and are to have the Transport Industry Superannuation Fund (The TIS Fund) included in the following awards as a default super fund:

- Roads Transport and Distribution Award 2010
- Road Transport (Long Distance Operators) Award 2010

\*The two applications are attached for reference

### **MySuper**

The trustees of The TIS Fund understand that the implementation of the Stronger Super package of reforms, which includes the introduction of MySuper, provides an opportunity to ‘level the playing field’ and is currently investigating the necessary steps required to meet the proposed MySuper criteria, including increased Governance.

Obtaining approval and offering a MySuper Fund option to prospective members and sponsoring employers, would expand the Funds ability to service and meet the needs of the Transport community, and take away current confusion for employers and employees.

The Trustees do not believe there is an ideal ‘fund size’ for a default super fund, nor that being large always gives the ability to run more cost effectively, or be able to offer more options. On many occasions, larger superannuation funds can be slower, carry more waste, and have excess

ancillary services, just like as any other business sector. Although there have been a couple of studies, there is no 100% clear link that shows 'bigger is better'. As a small fund, we have a strong affinity with our members, and do produce good returns cost effectively.

Going forward, the focus of the Trustee of the Fund is to modernise the Fund, provide MySuper options, as well as 'Choice of Fund' and Pension options. In this way, The Trustees believe we will be able to meet the needs of our sponsoring employers and members and broader transport community in the future.

## CONCLUSION

The Trustees of The TIS Fund recognise that the current superannuation environment is overdue for review, but feel that as matters stand, within the Transport Industry, employers and employees are not able to simply and efficiently have access to a reasonable range of industry funds, in particular, funds suited to their occupation. The current system does not provide transparency, fairness or a competitive landscape that ensures the best outcome for members' accumulation of superannuation for retirement.

The answer is to level the playing field, either:

- allow further 'industry based' Default Super Funds to join the relevant awards; and/or
- adopt all MySuper Funds to be able to be used as Default Super Funds for those employees operating under modern awards.

## The Trustees The Transport Industry Superannuation Fund

## REFERENCES

- Road Transport and Distribution Award 2010
- Road Transport (Long Distance Operations) Award 2010
- Clerks - Private Sector Award 2010
- #Fair Work Australia Applications (2) to vary a modern award - 2012 Review by National Road Transport Operators Association for:
  - Road Transport and Distribution Award 2010  
# Note: Request at clause 20.4 to insert a further fund - Transport Industry Superannuation Fund (TIS)
  - Road Transport (Long Distance Operations) Award 2010  
# Note: Request at clause 19.4 to insert a further fund - Transport Industry Superannuation Fund (TIS)
- The Transport Industry Superannuation Fund Annual Report 2011
- The Transport Industry Superannuation Fund PDS
- The Transport Industry Superannuation Fund SPDS No 1
- The Transport Industry Superannuation Fund SPDS No 2