

# **INDUSTRY FUNDS FORUM INC**

**Submission to the Productivity  
Commission Inquiry**

**Default Superannuation Funds in  
Modern Awards  
April 2012**

**Industry Funds Forum Inc.  
Helen Hewett  
Executive Officer  
PO Box 34  
Broadway NSW 2007**

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## SUMMARY

The Industry Funds Forum (IFF) welcomes the Productivity Commission Inquiry into the process for the selection and ongoing review of superannuation funds to be included in modern awards as default funds.

The inclusion of nominated superannuation funds in Awards is an integral part of the superannuation system, reflecting the agreement of the industrial parties to awards and guiding members exercising choice of fund and employers choosing a default fund for their employees. This nomination also helps guide parties to Enterprise Bargaining Agreements when it comes to selection of the default superannuation fund.

Industry Funds Forum (IFF) maintains that it is necessary for both the employer and the employee, or their respective representatives, jointly make this important decision as it affects both.

The employee is clearly impacted directly and possibly significantly as allocation by default to a fund that has high costs, poor performance and in appropriate strategies for risk, investment and insurance, will likely impact greatly on their retirement income and standard of living. This could be to the extent that the employee is so deficient in retirement income that they need to rely fully or to some extent on the Age Pension, adding to the cost to the public purse.

The employer can also be impacted by higher overheads associated with managing their superannuation obligations. Many employers wear two hats when it comes to superannuation, as they are often a fund member as well as a participating employer. Some IFF member funds have reported that some employers are troubled by the responsibility of selecting the default superannuation fund for their employees as they see this as an onerous obligation and one they are not necessarily capable of discharging satisfactorily. In some cases these employers work side by side with their employees and in particular in small workplaces (of which there are many) this can be difficult during times of underperformance or uncertainty.

Another important question arises about the level of engagement and the ability to make this decision of the parties to this agreement. There is evidence shows that neither are sufficiently informed and/or engaged on superannuation to make this important decision.

The Cooper Review<sup>1</sup> found that many consumers do not have sufficient interest, information and/or expertise to be able to make an informed choice in relation to their superannuation and instead rely to a great extent on the default system for choice of fund, investment strategy and insurance.

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<sup>1</sup> Government Commissioner review into the governance, efficiency, structure and operation of Australia's superannuation system, 30 June 2010.

The Government through its MySuper reforms is endeavouring to ensure that members who for whatever reason do not exercise choice of fund, will be afforded reasonable protection. This is to be achieved by imposing obligations on Trustees to ensure that the risk strategy and the default investment strategy and insurance cover is appropriate for the demographic of their fund.

Industry Funds Forum (IFF) in this submission will outline a number of key issues for consideration by the Commission in its deliberations on this important matter.

Industry Funds Forum (IFF) welcomes this opportunity to make a submission to the Productivity Commission Inquiry.

Industry Funds Forum (IFF) supports the position of the Government that default funds should continue to be included in modern awards, with a transparent set of criteria that these funds can be assessed against. IFF views superannuation as an industrial matter and should remain in modern awards along with other industrial conditions, to help safeguard these conditions.

Industry Funds Forum (IFF) supports the process as proposed by the Industry Super Network where the current Fair Work Australia's award review arrangements, supported by an expert panel of superannuation industry practitioners, be used to assess funds to be included and to remain in modern awards as default funds.

This will ensure that the process for consideration is open to all superannuation funds to be included as default funds in modern awards provided they meet the essential criteria of operating in the best interests of members.

## WHO WE REPRESENT

Industry Funds Forum Inc (IFF) is an incorporated association made up of the Chief Executive Officers of 28 of Australia's largest industry superannuation funds (**Industry Funds**).

Superannuation Fund	Member
AGEST	Cath Bowtell
AMIST	James Thomas
AUSTRALIANSUPER	Ian Silk
AUSFUND	Kay Thawley
ASSET SUPER	John Paul
AUSCOAL	Bruce Watson
AustSafe Super	Craig Stevens
BUSSQ	David O'Sullivan
Cbus	David Atkin
Australian Catholic Superannuation Retirement Fund	Greg Cantor
Catholic Superannuation Fund	Frank Pegan
CARE SUPER	Julie Lander
ENERGY SUPER	Robyn Petrou
FIRST Super	Graeme Russell
HOST PLUS	David Elia
Legal Super	Andrew Proebstl
LUCRF	Greg Sword
MIESF	Bill McRobert
MTAA Super	Leeanne Turner
NGS SUPER	Anthony Rodwell-Ball
MEDIA SUPER	Ross Martin
REST SUPER	Damian Hill (Convenor)
SERF	Peter Robertson
STATEWIDE	John O'Flaherty
SUNSUPER	Tony Lally
TASPLAN	Neil Cassidy
TWU SUPER	Bill McMillin
Vision Super	Rob Brooks

These Industry Funds include multi-industry and industry-specialist, national and state funds. Collectively members of IFF represent over 9 million

accounts, around 600,000 participating employers and manage approximately \$200 billion in retirement benefits<sup>2</sup>.

Consequently the views of IFF are representative of Industry Funds and their members who are representative of average Australians.



## WHAT OUR SUBMISSION ADDRESSES

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<sup>2</sup> Estimated figures as at 30 June 2011

Industry Funds Forum (IFF) notes that a Tribunal conducted an extensive review of modern awards just three years ago. The opportunity to make representations was open to everyone and many different interest groups and organisations made strong representations.

Many of these same issues that informed the view of the Tribunal and led to its position remain valid.

The Commonwealth in 1996 said that superannuation in awards protects workers' entitlements and offers clarity about what these entitlements are, to all parties to the awards. Industry Funds Forum (IFF) supports this position.

The award modernisation undertaken was designed to modernise and simplify awards, so it is important that this further review in relation to default funds in modern awards does not complicate them by further unnecessary changes, or confusion.

Awards deal with a number of important superannuation issues that are not covered by the Superannuation Guarantee (SG) legislation and the superannuation provisions extend beyond dealing with default funds. Many of these awards are virtually the only protection that many low-income earners and marginalised workers have. For example:

- Some awards provide for superannuation to be paid where earnings are \$350 per month, whereas the SG only requires superannuation to be paid if the employee earns \$450 or more per month.
- A number of awards provide for superannuation to be paid on all leave including Maternity Leave, whereas the SG does not require superannuation to be paid on Maternity Leave.
- Some awards provide for superannuation to be paid at a rate in excess of 9% of Ordinary Time Earnings (OTE) and many awards specify the method of payment and frequency, which is often different to the minimum requirements under the SG.
- The SG was always intended to set the minimum requirements, yet some award rates are in excess of these minimums.

Modern awards cover entitlements and the capacity of the industrial parties to deal with superannuation in this way should not be diminished, as superannuation is an important part of total remuneration.

Industry funds value awards as these funds are largely industry based with some covering one industry and others covering multiple industries. Industry funds tailor their product and services to meet the needs of their industry participants.

It is therefore important to maintain and where possible improve these protections contained in modern awards in relation to superannuation, and IFF makes a number of recommendations in this regard.

IFF has largely confined this submission to the outlining:

- The reasons why it supports a joint decision of the parties to modern awards in relation to the inclusions of superannuation funds in modern awards;
- Support for the process as proposed by ISN for the selection of superannuation funds to be included in modern awards as a default fund, and their ongoing review; and
- A number of recommendations to strengthen the current superannuation provisions in modern awards.

There are a number of specific questions for comment in the Issues Paper released by the Commission in February 2012. Industry Funds Forum has addressed many of these questions in this submission.

## **CONTACT DETAILS**

Please contact Helen Hewett, IFF Executive Officer on 0417 341 235 if you wish to discuss any aspect of this submission or require any further information.

# IFF SUBMISSION

## POSITION OF IFF

Industry Funds Forum (IFF) supports the process as proposed by the Industry Super Network where the current Fair Work Australia's award review arrangements, supported by an expert panel of superannuation industry practitioners, be used to assess funds to be included and to remain in modern awards as default funds.

In summary, this process provides for the selection of default funds to be part of the current arrangements whereby modern awards are reviewed by Fair Work Australia (FWA) every four years.

To assist FWA an expert panel of superannuation industry practitioners be formed to assist only with the task of selecting and reviewing the default funds in modern awards.

Applications would be open to any Regulated Superannuation Entity (RSE) operating an APRA authorised MySuper product which can demonstrate two things to APRA:

1. That it has achieved a relative performance benchmark over a rolling ten year period; and
2. That it has met certain business conduct standards.

Industry Funds Forum supports the ISN process and the proposed eligibility criteria for application by a superannuation fund to be considered for inclusion in a modern award as a default fund.

In order to protect the interests of members it is very important that all default funds named in modern awards are relevant to the industry/s covered by the award and are operated by a trustee with knowledge of the industry/s and the needs of fund members. Employers and employees covered by the award will be valuable in helping to substantiate this, as will the relevance of services offered by the fund to participants.

Industry funds have a proven track record of delivering sustainable quality value-for-money benefits to suit the needs of their members. This is assisted by not having to service shareholders with profits. This sole focus on the best interest of members is important. Filters such as APRA licensing and regulation, sound guiding principles to underpin the selection of default funds in awards as proposed by ISN, along with MySuper requirements are important if members' interests are to be put first.

Industry funds developed the current governance structure, which applies to regulated superannuation funds. Industry funds have from virtually the beginning had equal representation and a two-thirds majority for decision-making. This representative governance structure helps ensure that member interests come first, at the same time allowing key stakeholders have a say in how the fund is run, with no one stakeholder or group of stakeholders having a controlling interest.

It is very important that all default funds offer insurance cover appropriate for the relevant industry/s and the needs of fund members, and that this cover is available to all members regardless of pre-existing medical conditions.

Insurance is widely recognised by both employers and employees as an important component of workplace superannuation. Research conducted by IFF in 2010 confirmed this. It also highlighted that the majority of members rely solely on default cover levels because they find it equally as difficult to determine their insurance needs as they do their investment strategy.

Industry Funds Forum as part of this major research project in 2010 and with the help of two leading insurance consultants developed a new definition of insurance adequacy for five different member profiles. This tool helps Trustees to develop insurance strategies more targeted at their membership demographic and it also assists at member level by engaging members and empowering them to be able to make active choices for their insurance cover. These tools also assists Trustees with the difficult task of balancing the retirement needs of members with their insurance needs, and avoiding unnecessary diminution of retirement benefits to over-insure members.

The IFF research work was able to examine closely the claims that superannuation fund members across-the-board were severely under-insured. This examination found that whilst the majority of members with dependants were under-insured the gap was much less than what was being reported and the vast majority of young members without dependants were significantly over-insured for death cover.

Many of the IFF member funds have successfully used the IFF research findings to review their insurance strategy and in a number of cases this has led to changes in cover type and levels, with many members receiving less, more or different cover. Some of these funds have also developed several default cover levels to cater for a range of member profiles with different cover needs.

Industry Funds Forum (IFF) is presently developing an insurance calculator, which will use the IFF definition of adequate insurance cover based on maintaining living standards. The calculator will offer members the ability to select from one of five profiles to determine their insurance needs or build their own profile by using information such as income and expenditure. The calculator will also offer Trustees the ability to profile their membership to

determine which profile/s best suit their fund demographics and member needs.

It is important to protect insurance and the economies of scale opportunities and the proposed measures for review of superannuation funds to be included in awards as default funds will assist with this. High participant rates enable these economies of scale to be captured for the benefit of industry fund members. High participation rates and strong cash flows also help funds to provide stability and confidence in the superannuation system during times of uncertainty, such as the Global Financial Crisis.

Industry Funds Forum believes that modern awards should be required to specify details in relation to superannuation contribution levels and frequency of payment as well as listing default funds. There are a number of modern awards that do not include these details and this can give rise to uncertainty for both the employer and the member about when contributions are due to be paid and at what level.

If an award does not cover an employer, the industrial parties should be encouraged to consider having a single issue Enterprise Bargaining Agreement (EBA) to cover superannuation so that specific details of contribution levels and frequency can be clearly understood by the industrial parties.

Where there are multiple default funds listed in modern awards consideration needs to be given to the potential for conflict of interest should the employer be guided by anything other than the best interest of their employees. Whilst under Section 68A of SIS some inducements are banned, there are a number of goods and services which are not banned and these need to be considered with the view to avoiding conflict of interest, which could be deliberate or inadvertent. IFF recommends that employers not be able to accept ANY inducements what so ever from a fund listed as a default fund in a modern award. This will help ensure confidence in the default selection process and the system generally.

Industry Funds Forum supports the continued inclusion of operating funds named in current awards, provided they meet the requirements of MySuper. These existing funds would still be subject to the same review as new applications and this review would be conducted in accordance with the current review timetable.

Industry Funds Forum recommends that all modern awards be required to include a standard form of wording for the calculation of superannuation contributions payable.