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27 July 2012

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

Dear Sir/Madam,



I write to you in relation to the Productivity Commission's Draft Report: *Default Superannuation Funds in Modern Awards*.

Business SA is South Australia's leading business membership organisation, representing thousands of businesses through direct membership and affiliated industry associations. We represent businesses across all industry sectors, ranging in size from micro-business to multi-national companies. Business SA advocates on behalf of business to propose legislative, regulatory and policy reforms and programs for sustainable economic growth in South Australia.

While Business SA does not support the rise in the Superannuation Guarantee Levy from 9 per cent to 12 per cent, it is necessary to ensure that people have adequate incomes in retirement and the business community recognises that it has an important role to play in contributing to this outcome.

Business SA believes that the legal obligations contained in the compulsory superannuation system should be separated from the Modern Awards system. Indeed, Modern Awards should not supplement the superannuation guarantee legislation with award prescription of general superannuation obligations, nor should they specify default funds.

The multiplicity of regulation sources does not assist certainty and clarity. The red tape and administrative burdens for businesses associated with their superannuation obligations should be minimised. The system of ensuring adequate retirement incomes for people should be simple, cost-effective and be contributed to by both businesses and employees.

Nevertheless, because superannuation terms are expected to continue to be prescribed in Modern Awards, Business SA supports a generic standard clause for those awards which continue to prescribe superannuation terms which is consistent with superannuation guarantee obligations.

If superannuation funds are going to continue to be named in Modern Awards as default funds, the selection of such funds should be made by the Australian Prudential Regulatory Authority (APRA), applying all of the principles listed in draft recommendation 7.1 of:

- best interests of members
- contestability
- transparency
- procedural fairness
- minimum regulatory burden
- avoidance of instability
- consistency with other policies
- regular assessment.

The decisions by APRA should also take into account the factors outlined in draft recommendations 4.1, 4.2, 4.3, 4.4, 5.1, 5.3, 5.4, 6.1, 6.2 and 6.3, which emphasise that the best interests of fund members should be the primary objective of the selection of superannuation funds to be listed as default funds in Modern Awards.

While Business SA generally supports contestability in terms of the access of superannuation funds to being listed as default funds in Modern Awards (i.e. draft recommendations 8.1 and 8.2, which includes businesses choosing a superannuation fund not listed in Modern Awards), this may raise the costs for businesses administering superannuation on behalf of their employees and lead to greater complexity.

Contestability may also be inconsistent with draft recommendation 8.4, which states that Modern Awards listing default superannuation funds should list between five and ten funds.

Business SA agrees with the first part of draft recommendation 8.5 that there should be ongoing assessment of the list of superannuation funds in Modern Awards to ensure that unsuitable, unauthorised or non-existent funds are removed as required. However, the timeframes in the draft recommendation that wholesale reassessments occur every eight years, with four year interim assessments, may be inadequate and/or not align with the performance of funds or the requirements of businesses and employees. The same point applies to draft recommendation 9.3 in terms of the timeframe.

Business SA supports draft recommendation 8.6 that a fair and robust appeals process is incorporated when selecting and assessing superannuation funds for listing as default funds in Modern Awards.

Business SA believes that the timeframes outlined in draft recommendation 9.1 regarding the implementation of the legislative and policy changes needed for the new process for listing default superannuation funds in Modern Awards is appropriate.

Business SA agrees with draft recommendation 9.2 that the superannuation fund names and identifying numbers used by APRA should be used when listing the default funds in Modern Awards.

Given the positions outlined above on the draft recommendations, Business SA broadly supports Option 4 in the Draft Report, with APRA being the independent body conducting the superannuation fund selection and assessment processes.

As the new default superannuation fund process is implemented, it will be necessary to inform and educate businesses of the system and what their options are. This should be conducted by APRA, in association with business membership organisations.

Yours sincerely

Nigel McBride

Chief Executive Officer