



10 August 2012

Default Superannuation Fund in Modern Awards
Productivity Commission
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Dear Sir / Madam

Draft Report of the Productivity Commission Inquiry into Default Superannuation Funds in Modern Awards

We welcome the Productivity Commission's draft report as part of its inquiry into the selection of default super funds in modern awards. The draft report identified 4 options to address the issue of selecting default super funds in the best interest of employees. This submission provides feedback on the 4 options outlined by the Commission.

Summary

ANZ proposes that a modified version of Option 1 should be considered by the Commission as its final recommended position to Government to ensure an open, contestable and transparent process in relation to a default fund selection system. We believe Option 1, which involves each employer choosing a fund from all of those that offer a MySuper or other approved default product, could be strengthened by suggesting a mechanism such that employers may easily and confidently access competent advice and/or publically available information to assist them with default fund selection at a cost that is appropriate to their needs. We give greater detail on possible enhancements to Option 1 later in this submission while providing feedback on the Commission's Options 2 – 4 immediately below.

Option 2 – Minimal Change

The Commission's Option 2, as described in the draft report, represents minimal change to the current selection process, where the industrial parties assess all potential funds and nominate a subset of five to ten funds to Fair Work Australia (FWA) for listing in an award.

We agree with the Commission's assessment that "under option 2, there remains a risk that the process will not be, or will not be seen to be, sufficiently open and contestable, and that the outcomes may not be in the best interests of members". On this basis we also agree with the Commission's conclusion that this option should not be supported.

Options 3 and 4 – Establishment of a FWA Panel or Expert Panel

Option 3 envisages decisions on default fund selection being made by a FWA panel of experts with the selection process to be opened up to allow all funds to present their case for listing in modern awards to FWA.

Option 4 is the same as the previous option, except the expert body would be independent of the FWA and the FWA would have little role in administering the decision.

Our primary concerns with Options 3 and 4 revolves around the following issues:

- We do not believe the establishment and cost of a new body to administer the selection of default funds in modern awards is justified given that the prudential regulator, APRA, will have already conducted a new and extensive licencing process for funds to provide a MySuper offering. We believe that APRA has the necessary skills, experience and methodology to assess whether superannuation funds have the appropriate processes and governance structures to obtain a MySuper authorisation. Further APRA has an ongoing supervision and monitoring program to review funds' operation and compliance with the conditions of the new MySuper requirements. Given the extensive involvement of APRA in the MySuper process, we are of the view that another approval body is not required.
- Employers can also seek advice from independent research houses or from financial advisers.
- Financial advisers can already provide expert advice on default fund selection based on their own inquiries, comparisons and based on research house analysis of the efficacy of funds and they can provide this advice at a reasonable cost.
- Financial advisers have a clear best interest duty to their clients under the Government's Future of Financial Advice reforms, whereas the expert panels proposed by the Commission have no such responsibilities or accountabilities.
- The establishment of a panel and its consideration of default fund arrangements for the 121 modern awards, involving potentially a review of hundreds of funds, will be costly and these costs would ultimately be borne by superannuation members.

"No Worse Off" Test and 8 Yearly Review of Listed Funds

Standing alongside any of the options that are finally recommended to Government, the Commission has also suggested that any fund that is not a listed fund should still be able to operate as a default fund arrangement for people on awards so long as the employer can demonstrate that employees are "no worse off" compared with a listed default fund. The rationale being that "this would add a competitive element to the system which will enhance incentives for all superannuation funds to meet the best interests of members. Moreover, it has the potential, in some circumstances, to allow for closer tailoring of superannuation to the needs of particular workplaces than is possible under a system based on awards."

The Commission may wish to consider the impact of introducing a further test on employers to the contestability of default super market. The test would be in addition to regulatory obligations imposed on trustees that are already significantly enhanced as a result of MySuper and Stronger Super reforms, and the best interest duty of financial advisers to clients.

Default Fund Listing Selection Criteria

We do not believe that the non-prescriptive criteria listed in the draft report (p17) includes any significant new concerns that need to be addressed by a separate body or process to establish the listing of a fund on an award.

Instead, ANZ believes that the focus should be on ensuring that a default fund arrangement is appropriate for employees and this should, as far as possible, leverage existing regulatory mechanisms and new advice and super reforms.

ANZ Submission

These criteria should not be used to restrict the number of funds as APRA's authorisation process will act as an adequate 'quality filter' for the purpose of investment governance (4.1), fund's ability to deliver on the product's investment objective (4.2), the appropriateness of fees (4.3), governance structures of funds (5.1), and conflict management (5.3).

ANZ has commenced the process of making key decisions to comply with the new MySuper and Stronger Super requirements while we also have a significant programme underway to comply with the FoFA reforms. All of these factors are having a significant impact on our decisions including how to compete in the new environment where:

- Fee structures between MySuper products will be practically identical;
- APRA will be conducting a rigorous authorisation process to ensure products meet the required standards; and
- Enhanced levels of disclosure will allow products to be listed on league tables that compare the fees and performance of different default investment options.

The APRA authorisation process was framed after considering the diversity, capabilities and risks of the industry and its component sectors. The regulatory and APRA authorisation mechanisms of MySuper should remain paramount. We are of the view that a sole criteria that default funds should be MySuper compliant should suffice for this purpose.

Employer Choice of Default Fund Arrangements

In simple terms the selection of a default fund arrangement for small to medium sized employers may happen in a number of ways:

- The employer may decide to maintain an existing default fund arrangement;
- The employer may seek advice from their employer association and the association would then refer the employer to the default funds listed in the relevant award;
- The employer may seek the advice of a research house or financial adviser or their accountant.

Larger employers with dedicated human resources departments may place a greater weighting on their default fund arrangement as a benefit that supports employee attraction and retention. To the extent that it is not inconsistent with any obligations they may have to select a default fund that is listed on an award, these employers will often call for tenders from funds on their default arrangements with the assistance of an adviser.

We acknowledge that employers will have different resources, capabilities and interests with respect to how they select their default fund. Our recommendations 1 and 2 ensure that employers can access appropriate advice on these arrangements in a way that is affordable for their business while recognising that different employers will have different advice needs.

ANZ Position

Our previous submission to the Commission recommended that the only criteria that is needed in a modern award is for the fund to be MySuper compliant. However, we acknowledge that this in itself would not address the burden employers are encountering in choosing and administering a fund. Also, options 3 and 4, as outlined earlier, will most likely lead to some costs being passed on to superannuation members (employees) to establish panels and processes to decide on the naming of default funds in awards.

For this reason, we propose that a less costly way of addressing the issues identified above is to create a mechanism such that employers may easily and confidently access competent advice at a cost that is appropriate to their needs.

This leverages existing infrastructure towards the closing the principle /agent gap, towards addressing employers' need to navigate complexities relating to super and alleviates employer's obligation toward their employees as it will be the role of the adviser who will need to act in the best interest of employees as a whole in workplaces.

Recommendation 1

ANZ recommends the Commission's Option 1 be supported with the following enhancement:

- Employers are able to engage a research house or financial adviser to assess default fund arrangements for their workplace, taking regard of a reasonable sample of approved MySuper funds, their own enquiries and based on research analysis of the efficacy of funds.

Recommendation 2

If recommendation 1 is not adopted on the basis that the Commission recommends to individually name funds in awards then ANZ recommends the following:

- Individual Funds can be listed in awards but the awards should also stipulate that any MySuper authorised fund can be selected as a default fund arrangement.
- Default fund listing by fund name be undertaken by an independent and suitably qualified body with the assistance of research houses / ratings agencies, with the cost of this service to be funded equally across each fund that is individually named in each award.
- Funds desiring to be listed on an award would be required to apply to be listed on awards of interest to them. In light of a fund's MySuper authorisation and information provided to ratings agencies / research houses, no further information would be required of the fund in addition to nominating the name of the award in which they wanted to be named.
- Employers would still be able to select their own default fund arrangement from approved MySuper compliant funds consistent with the dot point under "Enhanced Option 1" (above).

Recommendation 3

ANZ believes current regulatory arrangements sufficiently protect members' interests.

Yours sincerely

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