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Fair Work Commission  
GPO Box 1994  
MELBOURNE VIC 3001

Email: [Amod@fwc.gov.au](mailto:Amod@fwc.gov.au)

Dear Sir/Madam

## **2014 REVIEW OF DEFAULT FUND TERMS**

The Association of Superannuation Funds of Australia (ASFA) is a non-profit, non-politically aligned national organisation. We are the peak policy and research body for the superannuation sector. Our mandate is to develop and advocate policy in the best long-term interest of fund members. Our membership, which includes corporate, public sector, industry and retail superannuation funds, plus self-managed superannuation funds and small APRA funds through its service provider membership, represent over 90% of the 12 million Australians with superannuation.

ASFA welcomes the opportunity to provide a submission on the topics identified in the Statement of the Commission dated 30 January 2014.

### **The draft notices and draft forms**

ASFA notes that the draft notices and draft forms follow very closely the requirements of the provisions of the Fair Work Act in regard to the inclusion of MySuper products in the default fund term of awards.

That said, the instructions provide very little guidance on the detail of the processes to be used both by the expert panel and the Fair Work Commission. ASFA suggests that it would be helpful to applicants if:

- There were a specific, optional question in the forms which seeks information on the award or awards a fund is particularly interested in being considered for (e.g. "Are there any specific modern awards which you identify as particularly relevant for your fund? This is not binding and will be considered in more detail in Stage 2").
- The term "net returns" is clarified if possible to avoid different funds reporting returns on different bases, for example net of fees, or net of both fees and taxes, or net returns using the assumptions in product dashboards/APRA returns.
- More detail is provided in Forms FA and FC. These reflect the legislative criteria of "the appropriateness of the fees and costs...given...(ii) the quality and timeliness of services provided." We note that the *extent* of services provided is equally or more relevant than the *quality* of services to the appropriateness of fees charged. A fund which offers a wide range of member services would be expected to have higher fees/costs than a fund with very limited services, but could still provide better value to members.
- Forms FA and FC also reflect the legislative criteria of "the administrative efficiency of the superannuation fund". It would be helpful to clarify what aspects of "administrative efficiency" will be considered.
- More generally, it would be helpful for the notices and/or forms to expand the glossary and/or include guidance on what is meant by terms such as "risk profile" and "quality of advice".

### **The timetable for making applications**

The application forms envisage the collection of a considerable volume and variety of information from funds. While some of this information will be similar or identical to that provided to APRA in the context of applications for the approval of MySuper products, other information requests are new and may involve considerable work for funds.

In this context, ASFA considers that a reasonable timetable for applications and consideration might be:

- The initial calling for applications to the expert panel to be made in mid-March following decisions made by the Fair Work Commission on the content of the forms and the timetable.

- Applications to close two months after being called for by the expert panel. The expert panel could assess applications as they are received as in the first stage the test is meeting required characteristics rather than being ranked in merit order.
- A final list of funds selected for inclusion in the Default Superannuation List be published in mid-June.
- A calling for submissions for consideration in the second stage be made on the same date as the publication of the Default Superannuation List.
- Parties making a submission in regard to the second stage consideration be given six weeks to make such submissions.
- The terms of modern awards be revised progressively in the second half of 2014, with all decisions no later than 10 December 2014.

### **Other process issues**

Currently there are general “grandfathering” arrangements in place in awards through which employers are able to continue to make default contributions to funds they were making contributions to prior to 12 September 2008. ASFA understands that such general grandfathering arrangements will not continue from 1 January 2015 if new default provisions are in place at that date and no transitional arrangements apply.

The ending of such “grandfathering” potentially will have significant implications for both employers and employees. There will necessarily be a relatively limited time period between the time default funds are specified in specific awards and 1 January 2015.

It is also likely that there will be funds specifically listed in current awards which will no longer be listed after the current review of default terms.

Without suitable transitional arrangements this could lead to compliance challenges for employers in terms of understanding and acting on changes in the list of funds that can be used as a default fund. As well, if an employer commences contributing to a new fund then employees may wish to consolidate their accounts.

Both employers and employees will also need to explore the implications of a change in default fund for insurance cover of employees through superannuation. Default insurance cover in the new default fund may be for lower amounts than employees had in the fund contributions were previously made to.

The Fair Work Act in Section 156K provides that the Fair Work Commission may make a transitional authorisation in relation to a superannuation fund being an allowable default fund if the FWC is satisfied that it is appropriate to make the authorisation. ASFA considers that it generally will be appropriate to make such transitional arrangements when a fund is no longer listed as a default fund. ASFA suggests that a suitable transition period be six months after the making of new default arrangements in the award.

There may be circumstances where a longer transitional period may be appropriate. This is something that interested parties should be given an opportunity to provide submissions on. ASFA suggests that the timetable and processes of the review make specific reference to the calling for submissions on transitional arrangements.

If there any queries or comments regarding the contents of this submission, please contact myself or Ross Clare by email at [rclare@superannuation.asn.au](mailto:rclare@superannuation.asn.au).

Yours sincerely

A handwritten signature in blue ink that reads "Pauline B. Vamos". The signature is written in a cursive style with a large initial 'P' and 'V'.

Pauline Vamos  
Chief Executive Officer