



Investment & Financial Services Association Ltd

ABN 82 080 744 163

9 January 2009

Committee Secretary  
Senate Education, Employment and  
Workplace Relations Committee  
PO Box 6100  
Parliament House  
Canberra ACT 2600

Dear Committee Secretary

**Re: Fair Work Bill 2008 and Default Superannuation Funds**

The Investment and Financial Services Association (IFSA) welcomes the opportunity to participate in the Senate Standing Committee on Education, Employment and Workplace Relations inquiry into the Fair Work Bill 2008.

IFSA is a national not-for-profit organisation which represents the retail and wholesale funds management, superannuation and life insurance industries. IFSA has over 145 members who are responsible for investing over \$1 trillion on behalf of more than ten million Australians. Members' compliance with IFSA Standards and Guidance Notes ensures the promotion of industry best practice.

The Fair Work Bill 2008 will confirm that the industrial umpire (currently the AIRC but to be replaced by Fair Work Australia) has the power to create awards dealing with superannuation matters. IFSA is concerned that many of the 17 modern awards already created by the AIRC specify a limited number of superannuation funds which can be a default fund in a particular industry. IFSA is expecting similar outcomes in awards for the remaining industries currently being considered by the AIRC, which cover the vast majority of the Australian economy.

The default funds specified in awards will apply to employees who do not choose their own fund and will be compulsory for employers where there is no industrial agreement which overrides the award. Transitional arrangements apply to employers contributing who were contributing to another fund before 12 September 2008.

IFSA raised concerns with the nomination of individual funds as default funds during the consultation process on award modernisation conducted by the AIRC. I attach IFSA's submissions to the AIRC for your information.

The modern awards do not simply represent a continuation of the arrangements which applied pre-WorkChoices. For example, the modern award for retail employees, which may cover over 1 million employees, lists a single fund – Retail Employees Superannuation Trust. This is more restrictive than the current awards for retail employees in States such as QLD (five funds specified) and SA (125 employers have a different default fund approved).

The modern awards are also inconsistent with approaches adopted internationally, with the employers able to choose from 46 stakeholder pension schemes in the United Kingdom or 36 KiwiSaver providers in New Zealand.

Default superannuation contributions are a significant public policy issue. The Rice Warner Actuaries *Superannuation Fees Report 2008* estimates that compulsory superannuation contributions were \$48 billion in the year to 30 June 2008. Separate research indicates that 85 to 90 per cent of employees are estimated to have their contributions paid into their employer's default superannuation fund. I have attached a copy of the Rice Warner *Superannuation Fees Report 2008*.

IFSA is of the view that mandating a default fund in awards results in a range of negative public policy outcomes, including:

- Inconsistency with Australia's longstanding microeconomic reform agenda

Employers and employees will be required to enter into potentially costly industrial agreements simply to choose different default superannuation funds, creating a significant barrier to competition. As a result, modern awards effectively create 'mandated' monopolies for default superannuation contributions in three industries which are major employers: retail (including fast food), textile clothing and footwear, and higher education. 'Mandated' oligopolies are created in other industries which are major employers such as manufacturing and hospitality. Anticipated mergers between superannuation funds are likely to lead to further concentration.

If this were to occur in other sectors of the economy this would be viewed as a major national concern.

- Higher fees for members

Reducing competition will reduce competitive pressures on fees. Widespread competition has seen fees reduce across most sectors of the superannuation industry. The Rice Warner Actuaries *Superannuation Fees Report 2008* shows that total fees averaged 1.21% in 2008 compared to 1.26% in 2006, saving Australians almost \$600 million per annum. Since 2002, the most significant fee reductions have been 0.45% for large corporate master trusts and are now the cheapest segment except for government funds and corporate funds. Large corporate master trusts are excluded from being default funds in modern awards, other than the racing, horse and greyhound training, mining and rail industries.

A mandated default fund also prevents competition between industry funds.

- Improved services

Competition can also deliver significant benefits by improving the quality of product offered by superannuation funds. A competitive market has delivered significant benefits to employees and employers including daily unit pricing, real-time website access, employer facility to pay superannuation contributions electronically and the facility to pay for advice inside of superannuation (and thereby obtain a tax advantage).

- Lack of flexibility

Specifying default funds could, in some circumstances, place employers in an untenable position by forcing them to continue contributing to that fund, contrary to the interest of employees. For example, if only one default fund was specified and that fund was experiencing administrative difficulties, governance issues, liquidity constraints, poor investment returns or drastically increased its fees.

For these reasons, IFSA is of the view that the Fair Work Bill 2008 should provide further guidance to the AIRC and the parties to awards on appropriate outcomes in this area.

#### Possible solutions

The Senate Committee must recommend that the Fair Work Bill 2008 be amended to ensure that the default superannuation fund market in Australia is competitive.

IFSA's preferred alternatives to the current approach adopted modern awards in order of preference are:

1. No default superannuation fund nominated

For all of the reasons referred to above, our preferred approach would be to have no superannuation fund nominated as the default superannuation fund in the modern awards. This would ensure maximum flexibility to allow employees and employers to determine the most appropriate superannuation fund from time to time.

2. Nominate a default superannuation fund but allow employers to nominate an alternative superannuation fund

A second option would be to provide in the modern awards that superannuation contributions must be made to the nominated default superannuation fund or any other complying superannuation fund chosen by the employer. This approach would provide a competitive advantage to the superannuation fund or funds nominated in the award, but would not prevent other funds from competing.

3. Nominate a default superannuation fund but allow employers to nominate an alternative superannuation fund

A further option would be to provide that the superannuation contributions must be made to the nominated default superannuation fund or funds, or such other complying superannuation fund as agreed between the employer and employees.

4. Modern awards require employers to choose a default fund that is consistent with a list of criteria

IFSA believes that modern awards could instead require employers to choose a default fund that is consistent with a list of criteria. The criteria should be determined and remain outside the actual awards, be generic in nature and apply across all industries. This would allow for market innovation and provide greater flexibility for the criteria to be reviewed in line developments in the superannuation market and regulations.

Consideration would need to be given to the development of the criteria. For example, it could be developed by an independent panel comprising of parties to the awards and other expertise including from within the financial services sector, in parallel to the Award Modernisation process. Consideration should also be given to how such criteria are measured. This should be based on accurate, reliable and transparent data, comparing like with like, to allow for clearly evidenced comparisons of funds. The selection of a fund should be based on the characteristics of the individual fund rather than the category of fund. An example of what the list of criteria could include is at **Attachment A**.

To streamline the process for employers, there is scope for the assessment of whether a fund meets the default criteria to be undertaken by a third party.

Should you have any questions regarding the submission, please contact myself or Daniel Caruso on 02 9299 3022.

Yours sincerely



Richard Gilbert  
**Chief Executive Officer**

Enc: IFSA submission to the AIRC on award modernisation, August 2008  
Joint IFSA/FPA submission to the AIRC on draft modern awards, October 2008  
*Rice Warner Actuaries Superannuation Fees Report 2008, December 2008*

## CRITERIA FOR A DEFAULT SUPERANNUATION FUND

Criteria for a default superannuation fund could include:

1. Entry and management fees – The entry fees and the components of management fees should be clearly disclosed and competitive with other funds.
2. Exit fees – Exit fees should cover the administration cost of the transfer only and be clearly disclosed.
3. Transparency of information about the fund – Information about the unit pricing, the liquidity of the fund's portfolios and investments, the funds related service providers, asset allocation, structure and procedures, should be transparent and accessible.
4. Fund performance<sup>1</sup> – The performance of the fund should be appropriate relative to approved benchmarks for a comparative group.
5. Asset selection, diversification and management – Investment options within the default fund should offer diversification, transparent management and adequate liquidity of assets, to cater for the needs of the demographic profile of the workforce.
6. Levels of service provided to employees – Consideration should be given to the fund's customer service commitment and employees access to ongoing services including online and call centre enquiry facilities, member education and access to financial advice.
7. Minimise administrative costs for employers – Consideration should be given to the fund's ability to reduce the administrative burden on employers, in particular providing employers with the facility to pay superannuation contributions electronically.
8. Insurance cover – Funds should offer alternative levels and types of insurance cover to ensure adequate protection is available to meet the needs of employees.
9. Compliance with professional standards - Default funds should meet high professional standards to ensure consumers are protected. For example, IFSA Standards and Guidance Notes ensure the promotion of industry best practice and the Association of Superannuation Funds of Australia (ASFA) has a suite of Best Practice Papers for superannuation trustees.
10. Provision of financial advice – Where access to financial advice is made available by a fund, the cost of such advice should be clearly disclosed and separated from management fees. Such financial advice should be provided by an appropriately qualified person.

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<sup>1</sup> There has been considerable public debate about the transparency and accuracy of data on which decisions regarding the performance of funds are based. Improvements around the construction and transparency of data are anticipated in response to need for accurate data.