



7 January 2009

Mr John Carter
Committee Secretary
Senate Education and Employment, Workplace Relations Committee
Department of the Senate
PO Box 6100
CANBERRA ACT 2600

By email: eewr.sen@aph.gov.au

Dear Mr Carter

Re: Committee Inquiry into the *Fair Work Bill 2008*

MLC is the wealth management division on the National Australia Bank and commends the Committee for its inquiry into the *Fair Work Bill 2008*; MLC will restrict its comments to matters relating to industrial awards and related superannuation issues, it does not seek to make comment on the broader aspects of the legislation.

MLC

MLC provides investment, superannuation and insurance solutions and supports the provision of quality financial advice. Through a large network of financial advisers MLC provides quality financial planning services to individual investors and corporate customers throughout Australia. MLC also provides corporate and institutional customers with out-sourced investment, superannuation and employee benefit solutions.

MLC manages more than \$94 billion on behalf of individual investors and corporate customers in Australia (as at Sept 2008).

MLC holds the number one position for personal insurance annual inforce premiums with 14.7% market share (source: DEXX&R Life Analysis as at June 2008) and is second largest provider of superannuation in Australia with 16.6% market share (source: Plan for Life Australian Retail & Wholesale Investments Market Share and Dynamics Reports as at June 2008).

MLC is the partner of choice for around 1,400 self-employed aligned and salaried advisers in Australia and holds relationships with approximately 3000 independently owned and licensed advisers who choose MLC's financial solutions to meet the needs of their clients.

Investment and Financial Services Association

MLC is a member of the Investment and Financial Services Association (IFSA) and has been active in the representations IFSA has made to the Australian Industrial Relations Commission (AIRC) and the Australian Government on behalf of its members.

MLC supports the submission made by IFSA to this inquiry and commends it to Committee members; by way of supporting argument, the following information is provided for the further benefit of Senators.



Fair Work Bill 2008

MLC recognises the Government's objective to reform Australia's workplace relation laws and the significant mandate it received for this policy upon its election to office in November 2007.

MLC notes that the proposed changes to Australia's industrial awards will reorientate industrial parties to options which include collective bargaining processes and the creation of a new body in the form of Fair Work Australia, as an independent arbiter of the new system.

Award Modernisation and Superannuation

The legislation envisages a '*comprehensive safety net of minimum wages and employment conditions*'¹ made up of two parts: national employment standards and new industrial awards that will cover a further ten subject areas, including superannuation; this submission will restrict its comments to the latter.

The Minister noted in the second reading speech that the AIRC is currently in the process of modernising Australian awards; at the time of writing this process is partially complete and further announcements from the AIRC are expected in the near future.

To date, the AIRC has created 17 awards as part of the modernisation process and mandated individual superannuation funds that employers, who are party to those awards, must remit their compulsory superannuation contributions, absent of a contrary industrial agreement.

The IFSA submission details the potential disadvantages to employees and employers parties if the AIRC continues to mandate default funds for modern awards, these include higher fees for fund members, a lessening of competition in the superannuation market and a loss of flexibility for fund members and employers that would normally serve to enhance savings and outcomes of Australian workers.

Policy Dissonance

MLC contends that if the AIRC (and its successor *Fair Work Australia*) continues to mandate single superannuation funds for the balance of the new awards then the outcome will be irreconcilable with the Minister's and Government's stated principles for superannuation policy and the broader economy.

The Deputy Prime Minister told the Parliament that the *Fair Work Bill* would promote 'national economic prosperity' and 'flexibility'.²

In a 2008 speech to the Conference of Major Australian Superannuation Funds³, the Minister for Superannuation and Corporate Law, the Hon. Nick Sherry detailed a series of interlinked principles the Government would follow with respect to superannuation policy.

¹ Hon J Gillard MP, Second Reading Speech, House of Representatives Hansard, 25 November 2008

² Ibid

³ Hon N Sherry, Minister for Superannuation & Corporate Law, Conference of Major Superannuation Funds, Brisbane, 19 March 2008.



These principles included **choice**, **competition** and **higher retirement incomes**.

MLC is concerned that the lack of a competitive function as it relates to choosing superannuation funds for modern awards is in apparent conflict with the Government's stated policy for superannuation.

Mandating a single superannuation default fund for all relevant employees for pre determined periods will reduce or even eliminate competitive price pressures which to date, have reduced management fees for Australian fund members. On this point, MLC refers the Committee to the *Rice Warner* research provided to the Committee by IFSA, which illustrates this downward trend in management fees.

If the current practice of the AIRC is allowed to continue, there is the real prospect of Australians experiencing **lower not higher** retirement incomes as a result.

With respect to default funds, the Committee should be aware that many companies **actively choose** a particular default fund and is not the result of inertia or indifference on the part of Australian workers or employers.

These employers take into account additional services that a fund provides, such as on-site workplace education and financial advice, and are prepared to subsidise the fees charged so that employees have the benefit of these additional services without having to bear some or all of the normal costs.

In addition, many employers recognise the value of insurance for their employees and, with more sophisticated funds, are able to select arrangements tailored to their employees' occupation profile at a competitive cost. Typically such employers engage an independent consultant to assist them in the process of selecting the most suitable default fund for their needs. Typically, the consultants run a thorough tender process and undertake due diligence of the funds under consideration.

Policy Options

MLC supports the alternative policy options contained in the IFSA submission which include allowing employers to nominate an alternative superannuation fund or the drafting of a set of criteria against which all potential default funds should be assessed.

Finally, MLC would welcome the opportunity to appear before the Committee to expand upon this submission and provide further insights to these issues making particular reference to the extensive industry and commercial experience in this sector.

All inquires relating to this submission can be directed to MLC Manger of Government & Regulatory Affairs, Dallas McInerney (t: 02 9237 9206)

Yours sincerely

Dallas McInerney