Tim Watling
Secretary
Standing Committee on Education,
Employment and Workplace Relations
Email: eewr.sen@aph.gov.au

Inquiry into the Fair Work Amendment Bill 2012

To whom it may concern,

The Corporate Superannuation Specialist Alliance (CSSA) appreciates the opportunity to submit to the Standing Committee on Education, Employment and Workplace Relations on the Fair Work Amendment Bill 2012. Our response is limited to the changes to the selection of default super funds in Modern Awards

Our submission is made from the viewpoint of industry practitioners who are dealing with employers and their employees on a daily basis. We feel we can best add value by relaying the outcomes of discussions we have had with employers and employees, and by passing on the observations we have made about the functionality of the current default fund arrangements, from a financial advisors perspective.

What employers want from their Superannuation arrangements.

From our standpoint we would suggest that the vast majority of employers want to provide the best outcomes they can for their employees. In most cases employers view Superannuation as an important part of their employee's benefits and they appreciate the ability to be able to add value for their employees by tailoring a superannuation fund to suit their needs.

Choosing a default investment strategy that will suit the majority of the workforce and providing automatic and tailored insurance benefits at various levels for various staff categories are often important aspects of tailoring funds. CSSA members are involved in educating employees around the features and benefits of their default superannuation funds, and assisting members to ensure they are taking full advantage of these features. We also assist with consolidation of accounts, general paperwork, insurance applications, claims, etc.

The suggestion in the Productivity Commission Report that employers choose default funds for ease of administration, and not in the best interest of its employees, is without substantiation and is intuitively incorrect. Employers are usually members of the default fund also, so why would they not select the fund most suitable to members? Our CSSA members advise thousands of employers and understand the importance of member outcomes in the default fund selection.

Many employers see their default superannuation offering as being a differentiating factor for their company, and they can use it as a tool to assist them to attract and retain staff – to become an employer of choice.

Proposed Solution

We believe that there are a number of significant shortcomings in the changes to the selection of default super funds to be incorporated in the Fair Work Amendment Bill 2012.

- **Layers of Bureaucracy**: There are 3 layers of bureaucracy (selection stages) for a fund to make it through to a Modern Award.
  - Application to APRA to become a MySuper Fund
  - The Default Selection Panel (DSP) will select which MySuper Funds will make it through to each Modern Award
  - The Bench of Fair Work Australia will then vet the selections from the DSP

  The amount of time and cost in all this is considerable. Firstly the tax payer is funding the cost of these bodies. Secondly, funds that successfully apply for MySuper status but fail to be included in sufficient Modern Awards may struggle to be commercially viable.
- **Market Distortion**: If a fund does not appear in sufficient Modern Awards then it will be difficult for that fund to survive when it cannot be chosen as a default super fund. This could apply to major funds that may be forced to close. Such interference in the market we believe is a step too far for any government
- **Selection Process**: How can the DSP choose default super funds when there is no investment history? Many funds will be choosing new investment strategies for their MySuper so comparisons will be difficult if not impossible. The temptation will be to select funds purely on fee cost and not on value. Interestingly the difference in insurance premiums is often greater than the difference in fees yet how can this be considered objectively by the DSP in its

selection process, especially if there are tailored insurance costings for the workplace?

- **Review Period**: A period of 4 (or 8) years for review for continued inclusion within a Modern Award has a number of consequences. A fund that does not make the list initially is unlikely to be around in 4 years' time. Also funds that are on the list will wish to remain on the list and will be tempted to make inappropriately short term investment decisions due to this 4 year horizon. This could negatively impact investors in superannuation which is, by its nature, a long term investment.

Grandfathering

The Fair Work Amendment Bill 2012 will remove the 'grandfathering' element of the Modern Awards. This enabled employers to retain their existing default super fund if it was the default at 12 Sept 2008. There are numerous implications from this which cannot be understated. We have outlined the major issues below.

- **Employers Value the Grandfathering**: In the current system employers could have easily decided to change funds to one of the funds listed in the Modern Awards if they valued the selection process. Most employers chose not to do so. Many different funds will be used by employers covered under any award and quite a large number will be forced to change
- **Not Simplifying the Selection Process**: Even if 10 funds are listed employers will need assistance in choosing a default super fund. Professional assistance is likely to be sought, so it would make more sense to allow all MySuper funds to be considered as this will enable differences in insurance premiums to be considered, proactive and tailored financial literacy programmes included and any special arrangement that is in place with a current provider to remain
- **Inconsistent Information**: In the Explanatory Memorandum to the MySuper Core Provisions Bill the following was stated:

  2.4 This will be a minimal change to employers' current obligations.
  For most employers, it is expected their existing default superannuation fund will offer a MySuper product so they will not have to change their arrangements for making superannuation guarantee contributions. New employers, and employers making contributions to a fund that does not offer a MySuper product, will have to select a default fund that offers a MySuper product.

This clearly no longer the case as many employers will be forced to find new funds if their current fund is not included in the Modern Award list. This has clearly misled.

- **Time and Cost**: The Productivity Commission Report significantly underestimated the time and effort required by an employer in switching funds. Employers are aware of the amount of executive time (and hence cost) required in switching funds and will not switch unless there is a clear need to do so, e.g. consistent underperformance of investments or high insurance premiums. There will be a need to go through a selection process, the cost of professional assistance and the time needed to undertake a communication programme to employees. Most employers will see this as an imposition with no tangible benefits to members
- **Member Cost**: Funds will charge for transferring benefits to another default fund and these costs will be passed on to the member. How can this be factored into the DSP's assessment?
- **Loss of Insurance**: This is a major issue. Auto acceptance into ~~a~~ tailored group life insurance options may reduce or disappear, leaving members uninsured – particularly problematic for members with pre-existing conditions who are 'uninsurable' elsewhere. Those with life insurance in their existing super fund may end up with reduced cover on transfer to a MySuper fund. As mentioned above, higher insurance premiums could also be an issue. None of this has been addressed
- **Financial Literacy**: The proactive financial literacy programs that corporate super specialists currently provide to corporate super fund members will most probably be lost. Despite poor financial literacy in Australia, the Productivity Commission Report has dismissed these programs as unimportant because 'they are available elsewhere' thus preferring a reactive approach to advice in the workplace over a proactive one. Reactive intra-fund advice is the only 'education' the Productivity Commission recognises as important. Proactive education is not available elsewhere, so many thousands of superannuation fund members will lose this valuable service

In summary, forcing large numbers of employers to undertake this exercise and move away from the current carefully selected solutions, that have been tailored for their workplace, does not make sense.

Super is Different

Superannuation is different. Minimum wages can be set across large groups of skill-connected employees, minimum leave requirements can be set on a State or National basis and many other employment conditions can be covered by awards. Super and group insurance, on the other hand, is highly-related to the needs of the individual workplace.

As an example certain industries that employ a large number of casual and transient workers, such as the hospitality industry, are best advised to contribute to the relevant industry superannuation fund on behalf of most of these workers. This is common industry practice, and has been since long before the passage of the fair work act in 2009.

The consequence of nominating default funds in certain awards, however, is that many of the permanent, long term staff who also work for the employer under these awards will find their superannuation contributions are being made to a fund that may well not be the best one for them. They may get access to better features and benefits elsewhere. An example of the impact of this is that an employee who is in a 'white collar' administrative role may be subject to insurance premiums that have been tailored within an industry fund to suit a workforce of predominantly 'heavy blue collar' workers. The person in the administration role may be paying two or three times more for their insurance cover than they need to.

The Solution

It is clear to us that the best solution is for any MySuper fund to be a default super fund. We can find no substantive argument against this solution that we have not been able to clearly argue against in this submission.

This solution will enable:

- The reduction of a vast amount of unnecessary bureaucracy
- Retention of an open, competitive and undistorted market
- Fund managers to concentrate on long-term returns
- Grandfathering issues to be overcome
- The avoidance of high levels of cost associated with:
    1. bureaucracy
    2. employers' time in the compulsory review of super funds (when they may already have an ideal tailored solution)
    3. members costs of transferring funds

- The avoidance of much potential loss of insurance cover in moving to a new default super fund; in a country that has a significant underinsurance problem
- Employers to access **pro-active** financial literacy programmes instead of being forced to fall back on reactive assistance
- Employers to choose solutions that are tailored to their workplace and not to large groups of “occupational related” employees, and then have the solution imposed on employees within a company that are not in that occupation

If an award limits the choice employers have for their default fund it reduces their ability to provide the best outcome for their employees. This is clearly anticompetitive and it is not in anyone’s best interest, other than the fund nominated in the award. If a product is superior, market forces will attract advisors and investors to it.

Sincerely

Douglas Latto
President CSSA

Corporate Super Specialist Alliance Incorporated INC 9892668
P.O. Box 514, Waverley, NSW, 2024 Phone: (02) 8005 2776 Facsimile: (02) 8078 3818

About the CSSA

The CSSA was formed in 2009 to represent corporate superannuation specialist advisory businesses. CSSA members provide financial advisory services to thousands of corporate superannuation funds across metropolitan and regional Australia and play an essential role in managing Australia's large and growing superannuation savings pool. CSSA members work with Australian companies and their employees to provide them with improved life insurance and superannuation outcomes via their superannuation member accounts. CSSA members provide a broad range of services to corporate super plans at four levels, – the employer level; the policy committee (representative body) level; the individual super fund member level and to super fund members collectively. These services help employers and policy committees ensure that members are getting competitive benefits and features, at a competitive price, and that members have access to general advice and information to help them improve their decisions about their retirement savings and life insurance choices.

We believe that the proactive provision of services, general advice and ultimately financial planning advice in the workplace is critical to achieving the Government's goals of improving access to financial advice and maximising retirement incomes for members.

CSSA members conduct thousands of group seminars and "one on one" meetings with members of our employer funds each and every year, taking information and advice to their workplaces to improve financial literacy.