# 1 About the inquiry

The Australian Government has asked the Productivity Commission to design criteria for the selection and ongoing assessment of superannuation funds eligible for nomination as default funds in modern awards by Fair Work Australia (FWA).

## 1.1 Background to the inquiry

Compulsory superannuation is a core element of Australia’s retirement income system. Since the introduction of the superannuation guarantee legislation in 1992, employers have made compulsory superannuation contributions on behalf of most Australian employees. Employers must currently contribute 9 per cent of an employee’s ordinary time earnings. This will rise to 12 per cent by 2019-20. Superannuation contributions, superannuation earnings, and withdrawals from the superannuation system receive concessional tax treatment.

In May 2009, the Australian Government commissioned the *Review into the Governance, Efficiency, Structure and Operation of Australia’s Superannuation System* (the Cooper Review). The Cooper Review provided its final report to the Government on 30 June 2010. As a result of the Government’s response to the Review, the superannuation industry is in the midst of implementing the Stronger Super reforms.

A key finding of the Cooper Review is that many consumers do not have the interest, information or expertise required to make informed choices about their superannuation. Therefore, consumers rely heavily on default superannuation arrangements. The Review recommended the establishment of a new default superannuation product, MySuper. The Government accepted this recommendation, and superannuation funds will begin offering MySuper products from July 2013.

The Cooper Review also recommended that the Productivity Commission conduct a review of the processes by which default funds are nominated in awards, to assess whether those processes are sufficiently open and competitive.

At present, there are two main ways in which superannuation funds are selected as defaults for those employees who do not choose a fund.

* Most of the 122 modern awards contain a list of default superannuation funds, selected primarily on precedent and the consent of industrial parties. Employers must use one of the listed funds as a default fund for employees who derive their default superannuation fund in accordance with modern awards. Where more than one fund is listed, employers choose among the listed funds. This means employers may need to choose different default funds for workers reliant on different awards. If no default fund is listed in an award, employers are free to choose a default fund, provided it complies with the relevant superannuation legislation.
* Many other industrial instruments, such as enterprise agreements and state awards, also list default funds. Depending on the industrial instrument, employers choose the default fund in consultation with employees, and industrial parties may also have a role.

The Government has stated in the terms of reference for this inquiry that it believes that default superannuation funds should continue to be included in modern awards.

## 1.2 What has the Commission been asked to do?

The Commission has been asked to design criteria for the selection and ongoing assessment of superannuation funds eligible for nomination as default funds in modern awards by FWA. While the Commission has been asked to focus on factors that optimise the best interests of members, it is also to consider the impacts on other stakeholders.

The Government has asked the Commission to consider the interaction of this inquiry with the design and implementation of MySuper. Once MySuper is in place, which introduces a range of new standards for default superannuation products, only superannuation funds that offer a MySuper product will be eligible to accept default contributions, or be listed as a default fund in modern awards (though there are exceptions for certain public sector superannuation schemes).

Accordingly, the Commission has considered whether there is a net benefit to members, and to other stakeholders, in designing criteria for funds seeking to be listed in a modern award over and above those that will be required by the Australian Prudential Regulation Authority to authorise a MySuper product. It has also considered the process by which funds are selected to be listed in modern awards.

The Commission has taken into account that the Government believes default superannuation *funds* should continue to be included in modern awards. The Commission also notes that default contributions can generally only be made to MySuper *products* offered by funds. As appropriate to the context of each recommendation, some recommendations relate to the nature of MySuper products offered by funds, whereas others relate to the conduct and performance of a fund. Ultimately, the Commission considers that product names (and identifiers) should be used in conjunction with fund names to list default superannuation products in modern awards.

## 1.3 The Commission’s approach to the inquiry

In keeping with the *Productivity Commission Act 1998* (Cwlth), the Commission has conducted this inquiry using open, transparent and public processes, with an overarching concern for the wellbeing of the Australian community as a whole.

The Commission published an issues paper in February 2012, a draft report in June 2012 and conducted public hearings in July 2012 in Melbourne and Sydney. The Commission has met with a range of interested parties, including: industry and union bodies; superannuation funds; academics and Government officials.

A total of 94 submissions have been received since this inquiry was announced. Appendix A provides details of the individuals and organisations who have participated in the inquiry, through submissions, visits and public hearings.

In conducting its analysis and proposing its recommendations, the Commission has given consideration to all submissions received during the inquiry, including responses to the draft report and feedback at the public hearings. The Commission has taken the best interests of employees who derive their default superannuation product in accordance with modern awards as the primary goal. The Commission has also been mindful of the administrative and compliance impact on employers and their representatives, unions, superannuation funds, FWA, the Australian Prudential Regulation Authority and other regulatory agencies.