# 6 Other potential criteria

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| Key points |
| * As part of the process for selecting default products in modern awards, consideration should be given to the appropriateness of a fund’s insurance offerings for employees who derive their default superannuation product in accordance with a given modern award. The extent to which a fund designs a range of insurance offerings under its default product, and the way these offerings are allocated to members, should be taken into account. * However, no prescriptive criteria should be applied to insurance as a requirement for eligibility for selection in modern awards because: * the Commission found no systemic issues that are likely to remain that would require further prescriptive criteria after the implementation of the Stronger Super reforms * there is potential for any additional regulation to have unforseen and adverse consequences, due to the complex nature of insurance. * Intra-fund advice improves the ability of members to make informed decisions about their superannuation. In the selection and ongoing assessment of superannuation products for listing as default products in modern awards, the adequacy of intra-fund advice should be considered. * However, given that the Stronger Super and Future of Financial Advice reforms adequately address concerns about financial advice in superannuation, further prescriptive criteria should not be applied in this area. * Where funds are ‘connected’ to a particular industry, there might be components of their products that are highly suited to employees in that industry. However, it is the appropriateness of those components, rather than industry connectedness per se, that should form part of the consideration for the selection and ongoing assessment of superannuation products for listing as default products in modern awards. * Some employers and members face significant administrative costs in dealing with certain superannuation funds. The SuperStream reforms will address this issue to some degree. However, some differences between funds are expected to remain. * Therefore, the selection and ongoing assessment of superannuation products for listing as default products in modern awards should include consideration of the administrative efficiency of the fund. |
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This chapter looks at potential criteria relating to insurance, financial advice, industry connectedness and administrative efficiency in the selection and ongoing assessment of superannuation products for listing as default products in modern awards. The Stronger Super and Future of Financial Advice (FOFA) reforms are taken into account in this assessment.

## Insurance

Superannuation is a major distribution channel for insurance in Australia. Types of insurance currently offered with superannuation products include life, total and permanent disability (TPD), income protection and trauma insurance (box 6.1). Research suggests that more than 80 per cent of life and TPD insurance policies in Australia are held through individual superannuation accounts (AIST and IFF 2008).[[1]](#footnote-1)

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| Box 6.1 Types of insurance offered with superannuation |
| **Life** insurance provides a benefit to beneficiaries of the policy holder in the event of the policy holder’s death.  **Total and permanent disability (TPD)** insurance provides a benefit to the policy holder in the event they suffer mental or physical injury and are permanently unable to return to their normal occupation as a result.  **Income protection** insurance provides a benefit to the policy holder when they are temporarily unable to earn income due to illness or injury.  **Trauma** insurance provides a lump sum benefit to the policy holder if they are diagnosed with an injury or illness covered by the policy. Under the Stronger Super reforms, trauma insurance can no longer be offered with superannuation products. |
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There is currently a requirement under section 32C of the *Superannuation Guarantee (Administration) Act 1992* (Cwlth) for default funds to offer, as a minimum, a level of life insurance that is defined in terms of a premium of $0.50 per week, or a level of cover that is dependent on the member’s age.

Funds generally set a higher level of life insurance than the legislated minimum in their default products. In addition to life insurance, members are typically allocated a default level of TPD insurance on joining a superannuation fund. They can usually opt out or vary the level of insurance if they wish. Underwriting procedures for members wishing to increase their cover vary by fund.

There are two arguments commonly made for bundling insurance with superannuation products. First, the sole purpose test, provided under section 62 of the *Superannuation Industry (Supervision) Act 1993* (Cwlth) (SIS Act), requires that the sole purpose of a superannuation fund is to provide financial benefits when members retire, become disabled and are unable to work, or die. Second, obtaining insurance through superannuation can provide members with a range of benefits, including:

* lower premiums (the financial cost to members of the cover they receive) than those in the retail insurance market as a result of wholesale insurance contracts
* premiums being paid from pre-tax contributions
* automatic acceptance.

Insurance differs across several dimensions, including:

* the types of insurance on offer (such as life, TPD and income protection)
* default levels of cover
* maximum levels of cover
* ability to opt in or out
* automatic acceptance levels
* waiting periods
* continuity of insurance between jobs
* other terms and conditions.

Superannuation funds may vary insurance terms and conditions between groups of members within the same default product, depending on their circumstances. For example, a fund may differentiate offerings based on occupation, with a higher level of cover for members in a white collar industry, and a lower level of cover for members in a blue collar industry at the same premium, reflecting different occupational risks (box 6.2). Funds may also differentiate offerings between workplaces, or according to age and other demographic factors. However, the terms of the group insurance contract, as negotiated between the fund and the insurer, may restrict the fund’s ability to vary the terms between groups of members.

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| Box 6.2 Variation in insurance across superannuation funds |
| All default superannuation funds are currently required to offer life insurance under section 32C of the *Superannuation Guarantee (Administration) Act 1992* (Cwlth). Some offer income protection cover as well. A small number of funds offer trauma insurance, although this will be prohibited by the Stronger Super reforms.  Most funds allocate a default level of life and total and permanent disability insurance, which typically varies with age. The level of cover usually rises until members reach their 30s, then declines to a small amount of cover at retirement age.  Some funds offer one insurance schedule for ‘blue collar’ employees, and another for ‘white collar’ employees with the latter having higher levels of cover for the same premium. This recognises the increased risks of injury faced by employees in blue collar industries. Members are sometimes allocated to the blue collar schedule initially, but may change to the white collar schedule on application if they are eligible.  Some funds also differentiate premiums and levels of cover based on other factors, such as the member’s gender and whether or not they smoke.  Members allocated to a fund through their employer’s default arrangements are usually allowed to cancel or increase their insurance on joining without having to provide health information or undergo medical examination, within automatic acceptance limits. These limits vary between funds.  In many policies, members can also increase their cover when significant life events occur, such as getting married or having a child. The life events which allow a change in cover vary between policies.  If a member wishes to increase their cover at other times, they will usually be required to provide evidence about their health. The exact requirements will ordinarily be determined by the fund’s insurance provider. Industry funds generally acquire insurance through large insurers, although retail funds might be able to acquire insurance through a related party.  Other policy conditions, such as exclusions for certain events, also vary between funds, as does the treatment of members when employer contributions are no longer being made on their behalf (box 8.6). |
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### Stronger Super reforms

The Cooper Review argued that the provision of life and TPD cover aligns with the purpose of superannuation (that is, to provide members with benefits when they no longer work) and recommended that, in addition to life insurance, funds should be required to offer a default level of TPD insurance. Income protection was considered to be less clearly linked to the purpose of superannuation. Other types of insurance were considered insufficiently linked to the purpose of superannuation. As a result, the Stronger Super reforms:

* require that life and TPD cover must be included with MySuper products on an opt-out basis
* allow for income protection insurance to be included on an opt-out or opt-in basis, or not at all in MySuper products
* require that no types of insurance other than life, TPD and income protection are paid for by members through their superannuation in MySuper products.

Funds are currently afforded flexibility to differentiate insurance offerings within MySuper products between different groups of members. The Stronger Super reforms leave this flexibility intact, with two exceptions. First, funds will be required to provide all members with life and TPD cover on an opt-out basis. Second, where a MySuper product offers income protection insurance, it must be offered to all members of the product. Aside from these changes, the ability of funds to differentiate insurance offerings in MySuper products between different groups of members is not diminished under the Stronger Super reforms.

The Cooper Review also recommended that trustees should exercise the same level of care in making decisions about insurance as they should in making investment decisions. As a result, the Stronger Super reforms impose a duty on trustees of MySuper products to manage insurance in the best interests of members and to devise and implement an insurance strategy. The strategy is required to address:

* the kinds of insurance offered to members
* the levels of cover offered to members
* the basis for the decision to offer those kinds and levels of insurance, having regard to the demographic composition of the fund
* the method by which insurers are determined.

Further, prudential standards will require funds to have in place an insurance management framework. This framework includes:

* the insurance strategy
* policies relating to:
* member insurance premiums
* underwriting
* claims assessment
* the management of declined applications for insurance, applications resulting in reduced cover or restrictions, terminations of cover and requests for reinstatement
* clearly defined roles and responsibilities for the oversight of the framework
* a process to review the appropriateness and effectiveness of the framework.

The Cooper Review considered that the current level of information disclosure for insurance in superannuation products is poor and, as a result, members face considerable difficulty in comparing and contrasting options. To address this issue, the Review recommended that trustees of large funds regulated by the Australian Prudential Regulation Authority (APRA) should be required to publish on their websites the terms and conditions applicable to each type of insurance offered, with a plain English explanation of the terms and conditions, and detailed premium tables. This recommendation is expected to be implemented in an upcoming tranche of legislation.

The Review also recommended that success rates for TPD claims be made publicly available. However, this is not expected to be implemented, as the Government’s consultation process identified concerns that this might lead to adverse selection issues (Australian Government 2011b).

In examining the issue of funds providing ‘in-house’ insurance, the Review found that the savings associated with this practice were not large enough to justify the additional risk which would ultimately be borne by members. The Stronger Super reforms address this issue by mandating that self-insurance of any fund benefits should not be permitted in APRA-regulated funds except in the case of defined benefit funds that are currently allowed to self-insure.

Another issue investigated by the Cooper Review was the inconsistency between benefits paid under insurance policies in superannuation, and the conditions for release of benefits to members under the SIS Act. These inconsistencies have resulted in some members being unable to access a benefit paid from an insurance policy (particularly TPD) until another condition of release (such as reaching the retirement age) was reached. This has been addressed through Stronger Super by aligning the insurance definitions with the conditions of release.

Under the Stronger Super reforms, premiums and other costs of providing insurance to members of MySuper products can be charged to members through an insurance fee. Insurance fees are limited to cost recovery.

### Scope for additional criteria

#### Participants’ views

The main concerns regarding insurance raised by inquiry participants relate to the appropriateness of insurance offerings for the demographic profile of employees associated with a particular modern award.

Most inquiry participants agreed that a fund’s insurance offering should be appropriate for members’ needs. Many also considered that insurance offerings should be tailored to the employees who derive their default superannuation product in accordance with a modern award — rather than just the members of a fund — in order for a fund to be listed as a default fund in that award (ACTU, sub. 29; AIST, sub. 20; AiGroup, sub. 25; Australian Hotels Association, sub. 10; Corporate Super Association, sub. 14; CPA Australia, sub. 39; CSSA, sub. 35; legalsuper, sub. 19; NGS Super, sub. 18). For example, the Industry Super Network argued that:

MySuper will require trustees to develop and maintain an insurance strategy. Consistent with the wider duty upon the trustees to act in the financial interests of the fund beneficiaries, this strategy should be appropriate for the fund demographic. However, it may not be appropriate for the demographic of the relevant award. This duty should be extended and tested to ensure the product’s associated default insurance offering is appropriate. (sub. 27, p. 5)

However, the Financial Services Council noted that the Stronger Super reforms allow funds the flexibility to meet the insurance needs of diverse groups of members, submitting that:

Under the MySuper framework, a default fund provider will be allowed to tailor the insurance arrangements of any workplace. [In this way, the Stronger Super reforms] recognise the need for default funds to tailor the insurance arrangements according to the demographics of members of that fund, including occupation, age etc. Therefore, the [Financial Services Council] submits that if a default fund meets the legal requirements to hold a MySuper license then no additional requirements should be necessary to be able to qualify for inclusion as a default fund in an award. (sub. 30, pp. 20–2)

#### The Commission’s view

The Commission recognises that insurance is currently a major feature of superannuation, and considers that funds which are seeking to have a product listed in modern awards should be assessed on their ability to offer appropriate insurance.

Employees in different occupations face different risks, and thus require different types of insurance. The more that insurance can be tailored to a member’s circumstances, the better will be the outcome for that member. Given that employees within some industries might have unique insurance needs that relate to the level of risk inherent in their occupation, there is likely to be merit in considering insurance on an award-by-award basis.

Superannuation funds are able to vary their insurance offerings in order to meet the potentially diverse needs of industries, workplaces and employees who derive their default superannuation product in accordance with modern awards. The range of insurance offerings within a default product, and the extent to which that range is able to meet the needs of members allocated to that product, should form part of the evaluation when selecting products to be listed in modern awards.

The Commission recognises that the Stronger Super reforms already impose a duty on trustees to manage insurance solely for the benefit of members which, in conjunction with insurance strategies that funds are required to implement, implies that each product will optimise insurance offerings for the product’s demographic. The Commission considers that the selection and ongoing assessment of superannuation products for listing in modern awards should go one step further, and ensure that the insurance offerings are appropriate for employees who derive their default superannuation product in accordance with the modern award. The Commission recognises that there will be challenges in gathering adequate data to understand the characteristics of these employees (chapter 9), but, notwithstanding this, an assessment of the appropriateness of a MySuper product’s insurance offerings should be given consideration among a range of factors.

Although the Commission believes that the assessment of products to be listed in modern awards should consider the appropriateness of insurance, the Commission sees no case for additional prescriptive criteria to be applied to insurance in default superannuation products for two reasons.

First, as mentioned above, the Stronger Super reforms will effectively require that each fund optimise insurance offerings for its membership base. As a result, it is expected that insurance offerings in default products will be appropriate for members, without the need for additional regulation. Inquiry participants identified no further systemic issues that are likely to remain after the implementation of the Stronger Super reforms that require further intervention.

Second, insurance is a very complex product. If additional regulation is introduced regarding insurance, it could adversely affect other components in unforseen ways. For example, setting an upper limit on premiums might cause funds to reduce some of the costlier components from their offerings, such as automatic acceptance levels. This might increase underwriting expenses and ultimately increase costs to members.

Recommendation

The selection and ongoing assessment of default superannuation products for listing in modern awards should include consideration of the appropriateness of the MySuper product’s insurance offerings for employees who derive their default superannuation product in accordance with a given modern award.

Much of the information that funds would require to demonstrate the appropriateness of their insurance offerings would likely be contained in their insurance management framework (including the insurance strategy) and any contracts between the fund and their insurers.

## Financial advice and member education

Financial advice is commonly made available to superannuation fund members. The advice is typically provided by an employee of the fund or by a wholly owned subsidiary of the fund and can include:

* intra-fund advice
* advice relating to a member’s financial situation more broadly.

Intra-fund advice relates to a member’s existing interest in the fund and products offered by the fund. It is typically delivered over the phone, but it is sometimes provided through other channels such as seminars presented at member workplaces. The provision of such advice must comply with the sole purpose test of section 62 of the SIS Act.

Advice to members is regulated by the Australian Securities and Investments Commission (ASIC). In 2011, ASIC conducted a study of retirement income advice. It found that of 64 advice examples, only 2 were rated as good, with the remainder considered either adequate (37) or poor (24). Examples graded as poor (accounting for more than one third of the total) represented a breach of the *Corporations Act* *2001* (Cwlth). A significant determinant of this result was the conflicted remuneration structure of advisers (ASIC 2012b).

The Independent Financial Advisers Association of Australia found that, of more than 18 000 financial advisers in Australia, only 9 met the definition of independence contained in the Corporations Act (SuperGuide 2012). The incentives faced by advisers in the form of commissions and other conflicted remuneration structures, combined with a lack of independence in the industry, can affect the current quality of financial advice. These issues formed the focus of the FOFA reforms (discussed below).

### Stronger Super and Future of Financial Advice reforms

The Cooper Review considered that intra-fund advice is an important tool to assist members in making decisions about their superannuation, and should be proactively provided as part of superannuation products. However, it raised concerns about broader financial advice being bundled with superannuation products.

By bundling the cost of advice into the price of the product, and by having that cost incurred on an ongoing basis, members do not appreciate the true cost of the advice and may pay much more for the advice than it is worth. Also, members’ choices in this regard are limited; they generally cannot opt-out. (Australian Government 2010b, p. 18)

To address these concerns, the Stronger Super legislation requires that:

* trustees do not charge across the membership of the fund for providing personal financial advice (other than intra-fund advice), or for any financial advice on an ongoing basis
* the cost of advice or services provided to employers may not be recovered through a fee charged to any member of the fund.[[2]](#footnote-2)

However, the Cooper Review considered that the provision of financial advice to members through superannuation products helps to ensure that advice remains accessible to those who cannot afford to pay for it from other sources. As a result, the ability to opt into financial advice broader than intra-fund advice on a user-pays basis was supported, and an accompanying recommendation was made that such arrangements should lapse unless expressly renewed by the member.

The Stronger Super reforms allow funds to charge members for the costs of providing intra-fund advice through an administration fee. Funds may also charge an advice fee to members that receive broader financial advice.

Additional concerns were raised about commissions for financial advice, and the Review recommended that MySuper products be banned from:

* paying or funding any product-based up-front or trailing commission or other similar payment
* making or funding any payment that relates to volume
* paying premiums for insured member benefits that include or fund an up-front or trailing commission or like payment.

These recommendations are expected to be addressed through the FOFA reforms (chapter 5) which are focused on improving the quality of advice and enhancing retail investor protection. Key measures of the reforms include:

* a prospective ban on conflicted remuneration structures such as commissions and volume-based payments
* a duty requiring advisers to act in the best interests of clients when giving personal financial advice.

### Scope for additional criteria

#### Participants’ views

Inquiry participants acknowledged the importance of financial advice to superannuation fund members. For example, REST Industry Super noted that financial advice can help members ‘get on the right path at an early stage in life’ (sub. 47, p. 18).

While some participants singled out the importance of the availability and quality of intra‑fund advice (ISN, sub. DR62), others considered both intra‑fund advice and broader financial advice to be important components of a superannuation product (Association of Financial Advisers, trans., p. 136; Rural and Regional Promotions Pty Ltd, sub. DR86). For example, the Australian Institute of Superannuation Trustees submitted that:

Advice and education services beyond intra-fund advice should also be considered. For example, the existing range and distribution of member financial education services (e.g. seminars and member information), and the ability to access appropriate fee‑for‑service financial advice should also be taken into account in assessing the quality of advice. (sub. DR69, p. 13)

Strong support for member education programs was presented by Suncorp (sub. DR64), contending that such programs:

* can be delivered at minimal cost
* increase brand loyalty and retention rates, providing funds with commercial benefits
* generate higher levels of member engagement.

The Corporate Superannuation Specialist Alliance added that:

… the proactive delivery of education to employees is critical to achieving the Government’s desired outcome of improving financial literacy and ultimately people’s financial independence. Often education and advice provided in the workplace is the only exposure individuals have to proactive financial education. (sub. DR56, p. 4)

On the other hand, the South Australian Wine Industry Association identified that the objectives of increased financial literacy and independence could be achieved through a Government-funded education program delivered to employees (sub. DR71).

#### The Commission’s view

In considering whether the imposition of additional criteria relating to financial advice would be appropriate, the Commission assessed intra-fund advice and broader advice as two separate components.

##### Intra-fund advice

Equipping individuals to make well-informed decisions about their superannuation, and subsequently increasing member engagement, might improve outcomes for members and for the superannuation system as a whole (chapter 3). The provision of sound intra-fund advice can improve the ability of members to make such decisions.

The Cooper Review identified several shortcomings relating to financial advice in the current superannuation system. The Stronger Super and FOFA reforms aim to address these shortcomings and many other long-running issues relating to financial advice, and should encourage greater independence of such advice in future. In turn, this is expected to improve the value of intra-fund advice to superannuation members.

Therefore, it is the Commission’s view that the quality of intra-fund advice should be a factor for consideration when choosing default funds. Such advice can help members to make decisions that improve their financial wellbeing. Also, as the information required to deliver such advice is held by the fund, the fund is best placed to deliver the advice. Although the per-member costs of intra-fund advice are expected to rise under the Stronger Super reforms (Rice Warner 2012), the benefits of such advice remain important. Hence, the quality of intra-fund advice should be considered when selecting products for listing as default products in modern awards.

Recommendation

The selection and ongoing assessment of default superannuation products for listing in modern awards should include consideration of the quality of intra-fund advice.

The Commission could not identify, nor was it made aware of, any systemic issues relating to intra-fund advice that are likely to remain after the implementation of the Stronger Super and FOFA reforms. Therefore, the Commission sees no case for further prescriptive criteria to be applied in this area.

##### Broader advice services

The Commission cautions against mandating the bundling of additional components with superannuation products unnecessarily. The bundling of multiple components (such as investment management services, insurance and financial advice) into a single product (such as a superannuation product) can reduce competition within an industry (Kobayashi 2005). This in turn can lead to outcomes that are not in the best interests of members (chapter 3). Although superannuation is currently a major distribution channel for life insurance, and intra-fund advice is a vital component of superannuation products, the link between superannuation and broader advice services is less clear.

Advice relating to a member’s broader financial circumstances will usually incorporate a more comprehensive set of information that may include superannuation interests as one of many components. The advantages of having a superannuation fund provide this advice is consequently diminished in comparison with intra-fund advice. Furthermore, there is an established market for such advice, and individuals do not usually face any significant barriers to accessing the advice. Therefore, it is the Commission’s view that the availability and quality of advice other than intra-fund advice should not be a mandatory consideration for selecting and assessing products for listing as default products in modern awards.

However, the Commission does not wish to prevent funds from providing access to such advice if they wish to do so. Where funds believe that there is demand for such services among their membership, they could provide access to the advice for members who wish to opt‑in on a fee‑for‑service basis (consistent with the Cooper Review findings).

## Industry connectedness

There are currently some funds that tailor their superannuation products to employees in particular industries (for example, Cbus, HOSTPLUS, legalsuper and REST Industry Super). Some inquiry participants contended that where funds are ‘connected’ to a particular industry, the fund is better equipped to meet the needs of employees in that industry than are other funds. The Commission therefore considered whether any additional criteria around industry connectedness would be appropriate in the selection and ongoing assessment of products for listing as default products in modern awards.

### Scope for additional criteria

#### Participants’ views

Many inquiry participants considered that the default fund selection process should require applicant funds to demonstrate an understanding of, and relevance to, a particular industry. Cbus submitted that:

… the application of criteria which value industry knowledge and experience … is important because it will assist funds to develop a service approach and product development which will increase the net benefit to members. (sub. 15, p. 10)

legalsuper noted that:

Members of specific occupational industries have common superannuation needs that are very different to members of other occupational industry groups. This enables specialised funds to provide products and services specifically designed for them, and to provide tailored products and services not available through funds with a more diverse membership profile. (sub. 19, p. 2)

The Accommodation Association of Australia (sub. 28), Ai Group (sub. DR79), HOSTPLUS (sub. 8), Restaurant and Catering (sub. DR43), the State Public Services Federation Group of the CPSU (sub. 16), the Transport Industry Superannuation Fund (sub. DR91) and Unions NSW (sub. 13) made similar comments, while the Master Plumbers and Mechanical Services Association of Australia emphasised that its members should be able to ‘identify [a default fund] as being relevant to their business and industry’ (sub. 33, p. 1).

United Voice further argued that only industry funds were able to achieve the benefits related to industry association.

The industry-based model also allows funds to tailor products and services, such as insurance offerings, to meet the needs of their particular industry, occupational grouping or demographic. Moreover, the industry model also allows for a more effective compliance process, with relevant employer associations and unions working with their industry fund to provide information (consistent with privacy laws) to help chase up arrears. Without that industry connection (and with the threat of employers being able to opt-out of default funds if they were chased for arrears) it would be much more difficult for funds to ensure compliance. (sub. DR88, p. 13)

#### The Commission’s view

Where funds are ‘connected’ to a particular industry, there might be components of their products that are highly suited to employees in that industry. However, it is the appropriateness of those components, rather than industry connectedness per se, that should form part of the consideration for the selection and ongoing assessment of superannuation products for listing as default products in modern awards. This has been recognised in the listing in modern awards of some funds that draw their membership from a variety of industries. For example, AustralianSuper is listed as a default fund in 69 modern awards that cover a diverse range of industries from alpine resorts to corrections and detention.

Therefore, it is the Commission’s view that although a fund may have a close understanding of a particular industry through direct association, explicit consideration of this association is unnecessary in the selection and ongoing assessment of products for listing as default products in modern awards.

## Administrative efficiency

Employers and members face costs in interacting with superannuation funds (chapter 2). Employers administer employee contributions, and failure to do so can lead to fines. Employers incur costs in the form of time and resources spent selecting default funds, administering contributions and otherwise acting on behalf of their employees. A survey conducted for the Australian Taxation Office found that administrative efficiency was a significant factor in determining an employer’s choice of, and level of satisfaction or dissatisfaction with, a default fund (Colmar Brunton 2010a). Members and beneficiaries incur time and transaction costs when obtaining advice or account information, selecting product options, making claims on insurance policies or arranging to receive benefits on retirement.

Funds can take actions to reduce these costs for their stakeholders. Administrative efficiency is important to improve outcomes for stakeholders, and to minimise total costs in the superannuation system.

The limited choice of default funds in some awards (chapter 2) can restrict employers’ abilities to choose administratively efficient funds that minimise the costs they face. This in turn can reduce the incentives that funds face to provide good service to employers (chapter 3).

Small and medium employers might be more adversely affected by administrative inefficiencies than large employers for two reasons:

* Clearing houses are available to larger employers, but smaller employers are unlikely to want to incur the cost of, and might be too small to be able to secure, the services of a clearing house.
* Small employers have access to the Small Business Superannuation Clearing House, which may simplify their superannuation guarantee obligations. However, the service excludes medium‑size employers with 20 or more employees. Furthermore, according to the Australian National Audit Office, take up has been low and it is less efficient than private sector clearing houses (ANAO 2012). At a recent meeting of the Superannuation Roundtable, a proposal to better promote the service was agreed to (Shorten 2012e).
* Without the resources to choose a default superannuation fund through an enterprise bargaining agreement, smaller employers are more likely to rely on provisions contained in awards (ABS 2011b).

### Stronger Super reforms

The Cooper Review outlined many recommendations that together establish the SuperStream administrative reforms. In general, the recommendations promote the use of electronic commerce, standardised forms and member tax file numbers to:

* improve the quality and speed at which transactions are processed
* standardise the interactions between employers and funds
* consolidate lost accounts.

The *Superannuation Legislation Amendment (Stronger Super) Act 2012* sets out the framework to implement the data and payment regulations and standards that form the basis of the SuperStream reforms. A SuperStream working group was established to guide the development of standards and procedures to be included in the reforms (Australian Government nd). The SuperStream Advisory Council will take over the role of providing advice to Government from the working group and will also consult stakeholders on these matters (Shorten 2012g).

### Scope for additional criteria

#### Participants’ views

Some participants to this inquiry noted the burden that superannuation can impose on employers (AJ and BJ Smith, sub. DR65; Business SA, sub. DR55; Electrical Contractors Association, sub. 17; FSC, sub. 30; ISN, sub. 27; MLC Ltd−NAB Wealth, sub. 44; REST Industry Super, sub. 47; South Australian Wine Industry Association, sub. DR71; United Voice, sub. DR88). As a result, administrative efficiency is identified as a major consideration of employers when choosing between funds (ACCI, sub. DR83; AIST, sub. DR69; CSSA, sub. DR56; ISN, sub. DR62).

Some participants expressed concern about the administrative efficiency of some funds, particularly in modern awards where there are few funds listed and hence few alternatives for employers to choose from. For example, the Council of Small Business Organisations of Australia noted that:

Due to the placement of a fund in an industrial award or instrument there is no motivation for a fund to be efficient in dealings with employers … employers cannot change to a different, more employer friendly fund, as the choice of fund (other than those mandated in the award) is not one that we can make. We also have no room for complaint as these organisations are outside the public service and there is no capacity for APRA or ASIC to demand they become more efficient. (sub. 7, p. 5)

The Financial Services Council added that:

In some cases, the service provider (super fund) can be inefficient or generally provide a poor quality of service to the employer … Employers who are unhappy with their default fund are then only able to contract out of that relationship by instituting an enterprise agreement at significant cost. (sub. DR80, p. 11)

Further, the Australian Chamber of Commerce and Industry pointed out that, due to the difficulties faced by some employers in changing funds ‘nomination as a “fund” in awards reduces the need for the fund to address service efficiency’ (sub. DR83, p. 3).

Other participants maintained that the SuperStream reforms make any consideration of administrative efficiency redundant (AustralianSuper, sub. DR74). For example, the Industry Super Network considered that it is ‘more appropriate to have such matters dealt with as part of the Stronger Super, SuperStream and small business clearing house initiatives’ (sub. DR62, p. 9). This sentiment was supported by AMP, which noted that ‘the administrative efficiency of a fund will largely be standardised through the implementation of the SuperStream reforms’ (sub. DR85, p. 5).

The Association of Superannuation Funds of Australia went further, submitting that competitive pressures already provide enough incentive for funds to provide a seamless experience for employers, and that the Small Business Superannuation Clearing House also helps to solve issues of administrative efficiency. It also cautioned against the creation of administrative efficiency benchmarks that might require funds to accommodate the inefficient practices of some employers (sub. DR75).

#### The Commission’s view

The SuperStream reforms are expected to improve the general administrative efficiency of the superannuation industry in the long run. However, the reforms do not improve the incentives for funds to efficiently interact with members and employers, particularly small- and medium-sized employers. Consequently, there might be areas of the fund’s business that fall outside the scope of the SuperStream reforms that affect the ease with which members and employers may interact with funds. For example, the quality and accessibility of call centres may still vary between funds, impacting on the experience of stakeholders.

The administrative efficiency of a fund will directly flow through to the costs incurred by employers, potentially impacting on the level of compliance with their superannuation guarantee obligations, as well as on the profitability of the business. The effect on businesses can, in turn, impact on employees. The administrative efficiency of a fund will also flow through directly to employees, in terms of the ease with which they can access details of their account, switch between products and options, make voluntary contributions and receive benefits.

Given the importance of these factors to members and employers, the Commission considers that there is a case for funds applying to have a default product listed in modern awards to be assessed on the administrative experience of members and employers in dealing with the fund. Relevant procedures, such as whether the fund has an appropriate contributions arrears policy and process, could also be considered as part of the assessment. Fund‑level information — such as service standards, member‑ and employer-satisfaction surveys or other qualitative and quantitative information ― could assist in this assessment.

Recommendation

The selection and ongoing assessment of default superannuation products for listing in modern awards should include consideration of the administrative efficiency of the fund.

It is the Commission’s view that explicit administrative efficiency benchmarks should not be set. There would be significant costs involved with this approach, including tasking an organisation or group of experts to determine the benchmarks, and imposing reporting requirements on funds. Also, since the SuperStream reforms are already expected to improve the administrative practices of funds to some degree, it is not clear that the additional benefits would outweigh these costs. Further, a qualitative understanding of employer and member experience and satisfaction might not be gained through a comparison that is based on quantitative benchmarks.

1. Pension systems in other countries, such as New Zealand, do not include insurance (appendix B). [↑](#footnote-ref-1)
2. In the Government’s consultation process, however, it was noted that this restriction should not extend to services that assist employers to interact efficiently with the superannuation fund (such as clearing house services) or to services that are designed to educate or benefit members or potential members. These exemptions are yet to be reflected in legislation. [↑](#footnote-ref-2)