



bhpbilliton
resourcing the future

BHP Billiton Limited
171 Collins Street
Melbourne VIC 3000
GPO Box 85
Melbourne VIC 3000
Tel +61 3 9609 2759
bhpbilliton.com

12 February 2014

Manager
Superannuation Unit
Financial System Division
The Treasury
Langton Crescent
PARKES ACT 2600

Email: superannuationconsultation@treasury.gov.au

Dear Sir/Madam,

Re: Better regulation and governance, enhanced transparency and improved competition in superannuation

Please find attached BHP Billiton's response to the discussion paper on *Better regulation and governance, enhanced transparency and improved competition in superannuation* released on 28 November 2013 for response by 12 February 2014.

Please direct any questions to Mr Andrew Fitzgerald, Vice President Reward via email Andrew.N.Fitzgerald@bhpbilliton.com or phone: 03 9609 3915.

Yours sincerely

Christian Bennett
Vice President Government Relations & Public Policy

BHP Billiton response to *Better regulation and governance, enhanced transparency and improved competition in superannuation*

PART 4: ENHANCED COMPETITION IN THE DEFAULT SUPERANNUATION MARKET

FOCUS QUESTIONS

27. Does the existing model (which commences on 1 January 2014) meet the objectives for a fully transparent and contestable default superannuation fund system for awards, with a minimum of red tape?

It is our view that the existing model adds complexity and regulatory burden without improving transparency or competition for the ultimate end consumer, the superannuation fund member. This will consequently increase fund costs which will inevitably place cost pressures on members.

From 1 January 2014, we operate in a MySuper environment, whereby a fund with a MySuper licence has recently undergone a comprehensive assessment with the Australian Prudential Regulatory Authority (APRA). Successful provision of such a licence should be a sufficient ground to continue being eligible to operate as a default fund for Superannuation Guarantee contributions.

Introducing an additional two stage selection process, to be repeated every four years, for a MySuper licenced fund in order to continue its default status, adds unnecessary red tape that will not deliver any direct benefits to members and the industry as a whole.

At the second stage selection process, the Full Bench of the Fair Work Commission is to decide which 2 to 15 funds are to be named in each particular modern award, based on the list of most suitable funds which have applied for inclusion. Only certain persons or bodies can make submissions to the Full Bench of the Fair Work Commission for inclusion of a fund under a modern award, which includes unions and employer associations but not Trustee bodies of superannuation funds. We believe this process lacks full contestability to this review process and can lead to unintended consequences. Employers, such as BHP Billiton, who have outsourced their superannuation arrangements to a corporate master-trust or independent trustee in order to provide professional superannuation services for our employees, believe that our partners would be better qualified and experienced to make such submissions on our behalf.

In considering this issue, regard needs to be had to the disruption to employers, funds and members. Restricting eligible default funds to only those named on modern awards will:

- result in directing future contributions to several new default funds (as our workforce is covered by multiple awards);
- create a number of duplicate member accounts for our employees at a time when the stated policy is to reduce the number of accounts, exposing default members to duplication of fees and charges, and increasing the probability of “lost” superannuation;
- result in higher fees, which is of particular concern given that employees in our existing corporate default funds enjoy significantly lower administration fees due to our buying power and scale. Redirection of contributions and subsequent creation of duplicate accounts in other funds with potentially higher administration fees will produce retirement outcomes for our employees that would be lower than otherwise should be the case; and

- cause confusion with regards to insurance coverage. We offer some employees company-provided income protection. Creation of a new account to a fund that also provides default income protection will result in duplication of premiums and potentially only one benefit being able to be claimed against. This produces negative retirement outcomes for our employees.

To conclude, we are firmly of the view that the existing model does not meet the objectives for a fully transparent and contestable default superannuation system for awards, with a minimum of red tape that will directly benefit superannuation fund members. Reform is required to:

- enable any MySuper authorised product to be eligible as a default fund, thus removing the need for an additional two-step approval process under the Fair Work Commission;
- enable, if the current system is retained, prescribed persons to include Trustee bodies of Superannuation Funds in order to allow them to make submissions to the Full Bench of the Fair Work Commission; and
- remove the restriction that permits only default funds to be named in modern awards.

28. If not, is the model presented by the Productivity Commission the most appropriate one for governing the selection and ongoing assessment of default superannuation funds in modern awards or should MySuper authorisation alone be sufficient?

MySuper authorisation alone should be sufficient.

We agree with the Productivity Commission's view that the selection of the default product should be merit rather than precedent-based which should improve performance through competition. The MySuper authorisation process supports a merit-based approach.

The Productivity Commission's recommendation that MySuper authorisation alone was insufficient when selecting a default fund was made in anticipation of the administrative burden for employers having to select from a potentially large number of MySuper products and therefore a concern that this selection process would not result in the selected fund meeting the best interests of employees covered by the award.

These concerns have not eventuated, with fewer than 100 generic MySuper products authorised by APRA, compared to the previously anticipated 200 MySuper authorised products. The workload required for employers is definitely less than the burden and disruption created if employers are required to select a new default fund when the existing named fund is removed, or when the grandfathering terms can no longer be applied.

The use of any authorised MySuper product alone should be a sufficient filter for the selection and ongoing assessment of default superannuation funds in modern awards.

29. If the Productivity Commission's model is appropriate, which organisation is best placed to assess superannuation funds using a 'quality filter'? For example, should this be done by an expert panel in the Fair Work Commission or is there another more suitable process?

Our view is that the Productivity Commission model is not an appropriate model. The organisation that undertakes this task should be comprised of independent individuals with no potential or perceived conflict of interests in order to maintain high levels of stakeholder confidence in the assessment process.

30. Would a model where modern awards allow employers to choose to make contributions to any fund offering a MySuper product, but an advisory list of high quality funds is also published to assist them in their choice, improve competition in the default superannuation market while still helping employers to make a choice? In this model, the advisory list of high quality funds could be chosen by the same organisation referred to in focus question 29.

We support this proposal, provided the:

- advisory list is not a compulsory or prescriptive list from which selection must be made, and
- costs incurred establishing the advisory list are not passed onto fund members.

Existence of an advisory list would help many employers, large or small, where they need to select or want to change their existing default superannuation arrangements. It will also provide some level of comfort knowing that the funds on the advisory list have been scrutinised by an independent review panel.

31. If changes are made to the selection and assessment of default superannuation funds in modern awards, how should corporate funds be treated?

We recommend that any authorised MySuper corporate fund, including any authorised MySuper corporate master trust, can be automatically used by the employer as its nominated default fund.