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Submission – Consultation Payday Super

Simplify Super Payments – Payday Super is not the Complete Solution.

Small businesses agree with the call for an overhaul of the administration, payment, and notification systems for employer superannuation obligations and potential penalties.

The current proposal for payday super doesn't consider the complexities of making super payments and won't resolve existing problems.

We seek for Government to consider a staged approach which includes consideration of what is possible to be practically achieved as an implementable set of improvements:

- What is an improvement to the system that can be achieved by the proposed June 2026 date?
- What is a further set of improvement that can be achieved by a later date?

To achieve the intent of "payday" super all parties to the process must improve and adopt different processes and develop systems including the employee, the employer, the clearing houses, the gateways and the superfunds.

It is documented by the most recent ATO super compliance reports that 94% of super payments are made willingly and on time by compliant employers. As this consultation proceeds we must consider improvements that do not negatively impact or deter the willingly compliant vast majority of employers.

Payday super raises processing costs for all parties involved. Are the Superannuation funds able to cope with up to 12-fold increase in transaction volume without incurring extra cost? Employee super balances could decrease due to higher administration fees. Employers will be paying more for their payroll software, the financial transaction costs and subject to the super gateway utilised also paying more for each transaction. Payroll software have different commercial offerings but someone is paying to process the super.

Superannuation Guarantee Contribution laws, established in 1992, were designed for a time when paper cheques and remittance advices sent through the mail was the only payment system.

Leap forward to 2023, all the obligation remains upon the employer, but they must, by law, use processes out of their control. They send an electronic payment and a payment contribution message from their payroll software through a Superannuation Clearing House. The clearing house then passes the data and the payment to each employee's superfund. The superfund then must process and allocate the money to the employee's super account. The employer is relying on their software, their bank, the clearing house and the superfund itself to process everything in the required time.

Currently, employers recheck and verify payroll calculations and ensure superannuation calculations are correct once per quarter and payment made within 28 days. To be efficient and effective employers are acquiring commercially provided software to calculate the employees gross pay, the tax to be withheld, the leave accruals and entitlements as well as the amount of superannuation to be paid.

The current penalty regime is imposed upon an employer if one of the parts of getting that payment in to the employees super account fails. Penalties include loss of the tax deductibility, \$20 per month administration fees, interest rates, up to 200% penalty amounts. While we concur that deliberate or repeated underpayment of superannuation should be penalised, this penalty regime designed in 1992 is no longer fit for purpose or targeted correctly.

Payroll corrections happen. Payday super raises a number of concerns about process and efficiency. Payments can change with public holidays, allowances, loadings, and deductions, or when overtime is reported after a payrun is complete. If super is to be paid on payday, questions arise about handling corrections and overpayments.

- what happens when an employees pay is corrected and super has been overpaid?
- what happens when the difference in super is \$0.50 and a correction incurs transaction fees in excess of the corrected amount?

Employers face costs to comply with the compulsory superannuation payment systems, including software, transaction fees, and time spent processing payments and addressing errors. Payday super increases transaction costs, particularly for weekly payroll.

The government-provided Small Business Superannuation Clearing house (SBSCH), used by around 130,000 small employers, is ill-equipped to handle payday super. It cannot process multiple payments in quick succession and has a history of delays, with reports of payments through the SBSCH taking months to be received by super funds. A significant overhaul is needed to accommodate the proposed more frequent super payments.

The vast majority of employers already pay super regularly and ontime, often correcting shortfalls without external input. The proposed changes penalise compliant employers and

may discourage noncompliant employers from correcting their errors and making timely payments.

The proposal to move employers to compulsory payment of super on payday requires careful and considered design. It must allow a corrections framework whereby errors can be found, fixed and any shortfall paid once per quarter (aligned with BAS reconciliation and verification processes). This proposal requires consideration of the cost to business, balanced with the benefit to the employees superannuation growth.

It is claimed by some that the move to payday super helps with cashflow. Most small business have complied with the obligation to pay their super since 1992 and for cashflow plan their super payments in line with all their payment obligations. Paying their tax office tax amounts, their GST, their PAYG withholding, paying their employees wages and entitlements, paying their suppliers and hopefully making a living for themselves as well. Small business cashflow is managed and planned.

We seek Government to further consider the cashflow impact on small business: A small business monitors and plans their cashflow cycle. Currently the payment of super is planned to meet the required once per quarter payment. If this payment is to be brought forward it must be acknowledged that it will require a different plan for who gets paid when. In order to pay the superannuation earlier and more often, payments to other suppliers will have to be deferred. This will have a cashflow impact throughout business payments.

Superannuation Guarantee laws need reform to reflect modern systems and place fault and penalties on actual offenders. Consultation and co-design with small businesses are essential for creating a workable system that doesn't increase employer costs, disadvantage employee super balances, or punish compliant employers due to the actions of a few.

On behalf of small business COSBOA calls for continued consultation and co-design for a workable system, with a focus on:

- No increased processing costs for employers
- No increased costs for clearing houses or super funds that disadvantage employee balances
- Avoiding punishing compliant employers due to others' misbehaviour
- Implementing an acceptable corrections framework
- Reforming Superannuation Guarantee laws to reflect modern systems and target offenders.
- Allowing small businesses (<15 employees) to choose monthly super payments and opt in for more frequent payments if desired.
- Maybe employers found to be in regular breach in the past must move to payday super.

Principles to achieve improvements in these areas of concern include:

1. Employer obligation to be limited to the period they have an action obligation ie obligation starts after they have been provided correct superfund information by the employee and then there is a payment. Their obligation ceases as soon as they have sent the payment instruction to their bank.
2. Others are then to be held accountable for ensuring same day allocation to the members account.
3. To allow all parties to have a practical and implementable administration around reconciliation, corrections, etc the system should be same day is good but monthly is acceptable This also decreases transaction costs and the administrative burden.
4. A different approach to reconciliation and any penalties for employers should be designed.

We propose that an improvement to the superannuation payment system that should be achievable by the June 2026 target date is to move to monthly payments by small business.

We are aware of submissions by our members

- The Institute of Certified Bookkeepers
- Digital Service Providers ANZ

We are appreciative of the previous consultations conducted by the ATO and Treasury and seek to continue our contributions to further discussions.

Please contact us to discuss any aspect of this submission or related matters.

Kind regards

A handwritten signature in black ink, appearing to read 'M Addison', is positioned below the 'Kind regards' text.

Matthew Addison
Chair COSBOA

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