11 April 2025

Superannuation Access and Compliance Unit
Retirement Income and Superannuation Division
The Treasury
Langton Crescent
Parkes ACT 2600

Email: paydaysuper@treasury.gov.au

Dear Sir/Madam,

Submission on Payday Super exposure draft legislation and regulations

The Institute of Financial Professionals Australia (**IFPA**) welcomes the opportunity to provide this submission on the Payday Super exposure draft legislation to address unpaid super.

While we support the proposed change requiring employers to pay superannuation guarantee (**SG**) contributions at the same time as salary and wages, we believe amendments are needed to ensure its effective implementation. Our recommendations align with those outlined in our previous submission to Treasury on 3 November 2023 but with additional items for your consideration.

For ease of reference, our key recommendations are summarised below.

Exempt micro businesses from payday super

We recommend that micro businesses (ie, those with 10 or fewer employees) be exempt from the payday super regime and continue as quarterly SG contributors. The additional administrative burden of more frequent SG payments would be particularly challenging for these businesses, many of which lack access to appropriate payroll systems and resources to manage the increased compliance requirements.

Alternatively, if an exemption is not granted, micro businesses should either transition to a monthly SG payment cycle or be given a longer implementation period – such as an additional two years – to adapt to the payday super model. This phased approach would allow larger businesses to implement the system first, helping to identify and resolve any issues before extending it to micro businesses. It would also give smaller businesses sufficient time to upgrade their systems and manage the additional compliance requirements.

Payment date model for SG contributions

We recommend that the government adopt a 'pay date' (payment-based) model for SG contributions, rather than the proposed 'due date' (receipt-based) model. Under the current proposal, SG contributions must be received by the employee's superannuation fund within seven calendar days of payday to be considered on time. We believe this timeframe is too restrictive and propose instead that contributions be required to be *paid* within 14 business days of payday. This approach would simplify administration, reduce compliance risks, and better align with the intent of payday super by focusing on when employers make the payment rather than when it is received.

However, if the government proceeds with the due date model, we suggest a standardised monthly due date – for example, requiring all SG contributions for a given month to be received by the 14th of the following month. This would make it significantly easier for both employers and regulators to track compliance, rather than monitoring payments after every individual pay cycle.

Institute of Financial Professionals Australia
ABN 96 075 950 284
PO Box 226, Flinders Lane, Victoria 8009
(03) 8851 4555
Level 14, 330 Collins St, Melbourne VIC 3000
info@ifpa.com.au

Concerns with the seven-day requirement

The proposed seven calendar day requirement poses practical issues. It includes weekends and public holidays when banks, clearing houses, and superannuation funds may not process transactions. This creates unnecessary compliance risk for employers, who may be penalised for delays outside their control. A business day based model would offer a more realistic timeframe and reflect how financial systems actually operate.

Under a pay date model, employers would meet their SG obligations once payments are made, that is, when the funds leave their account with the correct payment details, regardless of subsequent delays in processing. This ensures employers are not unfairly penalised for delays caused by banks, clearing houses, or fund processing times.

Additionally, the due date model is complex for employers managing different pay cycles across full-time, part-time, and casual staff. Monitoring receipt of contributions for each employee, every payday, adds unnecessary complexity. A shift to a pay date model – or at the very least, a standardised monthly due date – would provide a more practical and fair system for all parties involved.

Regulate superannuation clearing houses

The government should consider regulating superannuation clearing houses so they are obligated to remit SG on time. Provided the employer has paid SG on payday, any issues that arise between payment and receipt dates should fall on the superannuation clearing house. This is because at present, the clearing house's issue becomes the employer's issue as should the clearing house not pay the SG contribution on time, the employer is penalised. This is a further reason why we prefer the pay date model rather than the due date (receipt) model.

It also doesn't help that the ATO's free Small Business Superannuation Clearing house (SBSCH), which is used by around 130,000 small employers, will be closed from 1 July 2026 which means small businesses will need to move to other commercial paid clearing houses instead. As a result of more businesses relying on clearing houses, and the fact that they will be processing more frequent superannuation payments, this makes it even more important to hold clearing houses to account to ensure superannuation payments are paid on time.

That said, if we must have a due date (receipt) model, we would like due date to be the date the SG contribution is received by the superannuation clearing house – not the date the clearing house forwards the payment to the employee's superannuation fund.

Standard due date for extended SG contribution periods

We welcome the proposed extension of time for employers to make SG contributions in certain scenarios – such as for new employees, irregular or out-of-cycle payments, exceptional circumstances, where a stapled fund rejects a contribution, or when a default fund repeatedly fails the performance test. The draft legislation indicates that the timeframe for making contributions will vary depending on the situation. Rather than having a range of different due dates – spanning from 7 to 42 days after payday – we recommend introducing a single, standard due date for these extended periods to provide greater consistency and certainty for employers.

Retaining the ability to lodge an SG statement

The draft legislation proposes removing the requirement for employers to lodge SG statements under the amended SG framework, replacing it with the option to submit a voluntary disclosure statement to report an SG shortfall. From an administrative perspective, we believe retaining the option to lodge an SG statement is beneficial. It is a straightforward process for employers, and we question the rationale for removing it.

Institute of Financial Professionals Australia
ABN 96 075 950 284

PO Box 226, Flinders Lane, Victoria 8009
(03) 8851 4555

Level 14, 330 Collins St, Melbourne VIC 3000
info@ifpa.com.au

If the system moves entirely to voluntary disclosure, we recommend that notional interest stops accruing from the date the employer lodges the voluntary disclosure form. This would provide a fairer outcome and encourage timely self-reporting.

Simplify opting out of SG contributions

The current process for employees with multiple employers to opt out of receiving SG contributions is overly complex and should be simplified. Many affected employees struggle with the administrative burden, particularly the requirement to complete the SG employer shortfall exemption certificate form and meet strict deadlines.

While we recognise the draft legislation's intention to streamline the exemption certificate provisions, it largely retains the current approach. To meaningfully simplify the system, we recommend that once an exemption certificate is lodged with the ATO, it should remain in effect until revoked by either the employee or the employer. This change would make opting out of SG contributions far more straightforward and efficient.

Impact on SMSF members

We would like to highlight the challenges faced by employees who nominate a SMSF as their choice of fund, particularly when the SMSF has lodged its annual return late. Under current ATO administration, this situation is handled quite rigidly, and we believe more flexibility is warranted.

When an SMSF fails to lodge its annual return on time, the fund is removed from the Super Fund Lookup (**SFLU**) register, meaning it cannot receive employer SG contributions until lodgement is complete. While we understand this rule is intended to encourage timely lodgement by trustees, it can create significant issues for employees – especially where SG contributions are required to be made on payday.

In such cases, the only alternative is to redirect contributions to another fund until the SMSF is reinstated on SFLU. This can cause administrative burden and confusion for both employees and employers.

We recommend that employees be given the opportunity to challenge this rule where the circumstances are beyond their control. In our view, it should be reasonable for a fund to continue receiving SG contributions in genuine, one-off cases of late lodgement.

We support the ATO imposing penalties on trustees who consistently fail to meet their obligations – for example, those who have not lodged returns for several years should be restricted from receiving SG contributions. However, applying the same penalty to all SMSFs, regardless of the nature or frequency of the delay, is overly harsh. Trustees who are late with lodgement on a one-off or minor basis should retain the ability to receive SG contributions. A more proportionate and flexible approach would strike a better balance between encouraging compliance and ensuring fairness for SMSF members and their employers.

Closing comments

The successful implementation of payday super will rely on significant improvements across several systems to accommodate more frequent SG contributions. Superannuation clearing houses, for example, have historically faced processing delays and may struggle to handle multiple payments quickly under the new system. These systems must be upgraded to ensure timely and reliable contribution processing.

Additionally, faster payment mechanisms are essential to ensure SG payments reach employee funds within days of payday. Payroll and bookkeeping systems, while increasingly automated through tools like Single Touch Payroll, may require further enhancements to align SG payment timing with salary

Institute of Financial Professionals Australia
ABN 96 075 950 284
PO Box 226, Flinders Lane, Victoria 8009
(03) 8851 4555
Level 14, 330 Collins St, Melbourne VIC 3000
info@ifpa.com.au

and wage payments. Coordinated upgrades across these areas are necessary for a smooth transition to payday super.

In conclusion, for payday super to achieve its intended benefits, supporting systems must be modernised to operate in real-time. Superannuation clearing houses, payment platforms, and payroll systems must all be upgraded to handle the increased frequency of contributions and ensure seamless processing. Without these updates, employers may face compliance risks and administrative challenges, undermining the reform's effectiveness. A coordinated, technology-driven approach is vital for the successful rollout of payday super.

* * * * * * * *

If you have any questions in relation to this submission, please contact Phil Broderick on (03) 9611 0163 or pbroderick@sladen.com.au or Natasha Panagis on (03) 8851 4535 or n.panagis@ifpa.com.au.

Yours faithfully,

Phil Broderick
Institute of Financial Professionals Australia
Board Member
Chair, Superannuation Technical and Policy Committee

Natasha Panagis
Head of Technical Services
Institute of Financial Professionals Australia

About the Institute of Financial Professionals Australia (IFPA)

We are a not-for-profit membership association (originally known as Taxpayers Australia, then more recently Tax & Super Australia) and has been serving members for over 100 years. With a membership and supporter base of over 22,000 practitioners, our association is at the forefront of educating and advocating on behalf of independent tax, superannuation and financial services professionals.

This submission is made by us on behalf of our members' interests.