ARA SUBMISSION

SECURING AUSTRALIANS SUPERANNUATION PACKAGE

NOVEMBER 2023

The Australian Retailers Association (ARA) welcomes the opportunity to provide comments on the Securing Australians' Superannuation package (also referred to as 'payday super' provisions) announced in this year's federal budget.

The ARA is the oldest, largest and most diverse national retail body, representing a $420 billion sector that employs 1.4 million Australians – making retail the largest private sector employer in the country. As Australia's peak retail body, representing more than 120,000 retail shop fronts and online stores, the ARA informs, advocates, educates, protects and unifies our independent, national and international retail community.

We represent the full spectrum of Australian retail, from our largest national and international retailers to our small and medium sized members, who make up 95% of our membership. Our members operate in all states and across all categories - from food to fashion, hairdressing to hardware, and everything in between.

EXECUTIVE SUMMARY

In principle, the ARA agrees that there are advantages in seeking stronger alignment between the timing of wage and salary disbursements to employees, and the timing of employer superannuation contributions, through the introduction of so-called pay-day superannuation contributions.

We therefore support the intent of the reforms proposed by government.

Reforms should be designed and executed in a manner that helps employers meet their obligations in and efficient manner, while providing confidence for employers. Changes to the Superannuation Guarantee (SG) system should result in a seamless payment process for businesses with minimal administrative burden.

It is crucial that these reforms cater to the specific needs of smaller employers, ensuring that improvements are not solely targeted at large and medium-sized businesses. Given the limited resources of small business, accommodating their capabilities becomes paramount in adapting to changes, particularly in the context of increased frequency of superannuation payments.

Technology will play a key role in this transition. While the growing digitisation of payroll systems will help business streamline superannuation payments with the payment of salaries and wages, the introduction of payday super will require greater investment from the superannuation providers, government and the Australian Tax Office to increase automation of their payment platforms.

As a member of the Australian Chamber of Commerce and Industry (ACCI) the ARA broadly supports the position put forward by ACCI in its submission. However, we also make the following recommendation, which are detailed in our submission:

- The preferred model is the proposed 'three-day due date' model rather than the 'employer payment' model.
- Business will require support to minimise cost and risk of transition.

- Small business will require an extended transition period.
- The Superannuation Guarantee (SG) penalty regime will need to be amended with the introduction of payday super payments.

RECOMMENDATIONS

Recommendation 1
Three-day due-date model is the preferred model

The preferred model is the proposed 'three-day due date' model rather than the 'employer payment' model, which would impose the requirement on the employer to make payment of the superannuation contributions on the same day as wages and salaries are paid.

In comparison, the 'three-day due date' model would require contributions to be received by the superannuation fund within a certain number of days following payday: in this case, three days.

This modest grace period will ensure that employers have sufficient time to address any problems that could lead to unavoidable delays in payment of superannuation contributions- for example, issues with their payment systems, funds transfers or other factors like the timing of public holidays.

We believe a due date of three days after payday would be manageable for employers and reasonable from the perspective of employees.

We also believe that the payment should be considered paid on the day the payment is sent by the employer, not the day it is received by the superannuation fund. The employer should not be held responsible for potential delays by any intermediaries in passing on payments or by the super funds in their processing of payments.

Recommendation 2
Provide support to business to minimise cost and risk of transition

For the purposes of these reforms, the term 'payday' should be defined as the payment of ordinary time earnings, which are normally paid at regular intervals of weekly, fortnightly or monthly. Because superannuation contributions are most commonly paid monthly or quarterly, employers will require some support and a grace period during transition.

For some employers, this transition will be reasonably straightforward but others will find it more difficult to move from quarterly payments to monthly, fortnightly or weekly frequency. This may mean some employers move from fortnightly pay cycles to monthly pay cycles to better manage this transition, and minimise the administrative costs and burden of more frequent payments.

It is also worth noting that many businesses make wage and salary payments in the middle of the pay period, with a number of weeks in arrears and the same number of weeks in advance. This could make it difficult to identify any under/over payments of contributions.

As noted, technology will play a key role in this transition and facilitating more frequent payments of superannuation contributions. We believe that government should make resources and financial support available to business to minimise the cost and compliance risk of transition.

Recommendation 3
Extended transition period for Small Business

Small business will incur disproportionate costs to prepare for, implementation and manage the changes necessary to comply with these reforms. This is in addition to the substantial time it will take to upgrade or change systems and re-train staff.

With that in mind, we believe that the timeline for implementation of these reforms may not be sufficient for small business. As such would recommend an extended transition period for small businesses to enable them to fully adjust to the changes.

The Government should also develop educational resources for small businesses, outlining the new responsibilities and compliance obligations. Support, including an extended transition period and educational materials, should be provided to ensure small businesses adapt to these changes effectively.

Recommendation 4:
Penalty regime must be amended with the introduction of payday super

The ARA agree that deliberate nonpayment of superannuation is equivalent to theft and so we also agree that the superannuation guarantee charge is an important tool for deterring and penalising non-compliance with superannuation obligations.

However, we believe there is need for reform the SG penalty regime in-line with the introduction of the new payday super given the compressed timeframes of a 'three-day due-date' approach that could severely penalise employers who may be temporarily non-compliant for reasons beyond their control of an employer, such as rejections of payments, delayed information and inadequate messaging.

Thank you again for the opportunity to provide a submission on the payday superannuation consultation paper. Any queries in relation to this submission can be directed to our policy team at policy@retail.org.au.