Securing Australians' Superannuation Budget 2023-24

Aware Super Submission

November 2023

Issued by Aware Super Pty Ltd ABN 11 118 202 672 AFSL 293340

Table of Contents

Executive Summary

Aware Super welcomes the opportunity to respond to Treasury's *Securing Australians' Superannuation Budget 2023-24* Consultation Paper.

Aware Super supports the Government's move to align employer super contribution payments with wage payment cycles. The introduction of payday super from 1 July 2026 will help improve retirement outcomes by ensuring that fewer Australians are impacted by employer underpayment and non-payment of superannuation.

Payday super raises the ability for the ATO and individuals to monitor employer superannuation payment contribution transactions into super fund accounts. A well-designed payday super model should:

- improve employer and ATO oversight and response to super payment compliance;
- minimise unnecessary administrative burden; and
- contribute to streamlining the super payment system along with SuperSteam and single touch payroll.

Our submission response is informed by consultation with key employers who manage some of the largest workforces in the country, industry representatives, and engagement with Treasury.

Recommendations

1. A payday super model should be co-designed by Treasury, the ATO, super industry stakeholders and employer groups.
2. A payday super model should accommodate system efficiency and data integration, employer implementation costs, and sound compliance mechanisms.
3. Commence development of an API solution for onboarding that supports display of an individual's existing fund(s) during onboarding, alongside the employer default and other options.
4. Do not mandate a digital ATO solution for stapling.
5. Ban commercial arrangements for advertising of underperforming products and non-MySuper products at the point of onboarding.

About Aware Super

We're Aware Super - Money Magazine's Best and a Canstar Outstanding Value Super Fund for 2023^. As one of Australia's largest profit-for-members funds, we always remember whose money it is and whose future we're looking after. Along with super returns of 9.3% p.a.* (over ten years, for our High Growth option), and expert super advice and guidance for right now, it's what makes us super helpful.

^ Visit aware.com.au/awards for awards information.

* Source: SuperRatings Fund Crediting Rate Survey 30 June 2023 SR50 Growth (77-90) Index. Returns are after investment fees and costs, transaction costs, tax on investment income and any implicit admin fees. Past performance is not an indicator of future performance.

Payday super and stapling design

Developing a payday super model

It is crucial that a payday super model is co-designed with industry stakeholders including employers, employer groups, super funds, clearing houses and HR and payroll providers. Payroll systems vary widely across employers and a payday super system will need to account for these differences and complexities.

Of the two payday super models suggested in the consultation paper – same day payment for super and wages versus super due a few days after wages – large employers have indicated that paying super closely after wages is more achievable option due to processing timeframes.

Some of Aware Super's employer stakeholders run payrolls for some of the largest workforces in the country. Our employers typically manage complex wage and salary cycles with various EBAs and awards conditions. In some cases, employers also provide centralised payroll services for other entities under shared service arrangements.

Payroll systems require sufficient time to process payment data, and payday super will markedly increase data volume in a reduced timeframe. There will need to be a significant capacity-building effort to ensure changes can be designed and implemented across the relevant systems and stakeholders in the time available.

As a result, the payday super model that is chosen should:

- account for data validation, to minimise unintentional non-compliance due to data issues;
- provide reasonable timeframes to account for the entire payment process, from employer payroll through to the money arriving in the member's account; and
- minimise impact on employers who are already paying super on the same cycle as wages where they may have to make changes to comply with future new payday super laws.

Recommendation

1. A payday super model should be co-designed by Treasury, the ATO, super industry stakeholders and employer groups.

Payment system impact

The entire payroll ecosystem will need to change to support frequent employer super contribution payments. There is no single approach to payroll systems, with employers, clearing houses and super funds using different platforms and systems to manage data. Single touch payroll, SuperStream and ATO reporting services will also need to manage higher information flow in reduced timeframes.

Employer payroll timeframes can often be delayed by clearing house processing periods due to volume; lag in ATO matching and reporting systems; and length of time needed to correct data and payment errors (which includes following up with employees). A payday super model needs to consider the capacity of employers to receive and resolve incorrect information to remit super contribution payments on time.

Some employers, including those already voluntarily aligning super guarantee payments with pay cycles, advise that it takes about one week or more to prepare payroll data for payment processing. Large employers who frequently onboard new staff are more impacted by the quality of data provided which affects timely processing at the outset.

Raising wage and super payment files at similar times will increase payroll administration, and place pressure on team resourcing. Employers will need to enhance, build, and integrate new payroll systems to pay super more frequently. Some employers are concerned about whether they can afford the scale, scope, and size of this change-over within the proposed transition time.

While we support the objective of identifying and addressing non-compliance, it is important that a solution considers practical payment processing timeframes and does not create unnecessary cost, complexity, and burden for employers when majority of employers already meet super guarantee requirements.

Due to payment system impacts, the design of a payday super model should:

- include compliance mechanisms for sound deterrence but also account for the entire employer super contribution payment processing lifecycle;
- provide additional integrated digital solutions for ATO services and employers that enhance payment management, error rectification and communication (without requiring whole of system change); and
- be cost sensitive towards employer implementation.

Recommendation

2. Payday super model design should accommodate system efficiency and data integration, employer implementation costs, and sound compliance mechanisms.

Enhancing employee onboarding and choice of fund

The implementation of payday super provides an opportunity to improve the process of fund choice at employee commencement. We support changes to streamline this process for employers and individuals and prevent the unintended creation of duplicate accounts.

However, any broader change to stapling arrangements should be subject to further review and consultation.

Improving data at onboarding

To reduce unintended non-compliance with payday super, it is essential that employee information can be appropriately aligned with superannuation fund data. This will help to minimise payment delays due to mismatched data between the employer and a super fund.

Solutions that support the provision of quality data and upfront validation and simplify employer compliance should be encouraged. This includes digital services aligned with payroll providers.

This can be supported by ensuring employees have access to information to inform choice, including:

- ability to see and choose from an existing stapled account along with an employer's chosen default fund where possible (see below);
- choice of fund; and
- ease of accessing superannuation product information to assist informed decision-making.

However, any digital solution, including any ATO tool, should remain voluntary to encourage innovative and tailored solutions.

Streamlining employee choice

Aware Super strongly supports retaining the consumer choice moment that is central to the current stapling framework.

There are limited moments an individual is likely to engage with their super during their working life. Joining a new employer is one of these key moments where an individual should be empowered to consider their superannuation and insurance arrangements.

Onboarding platforms are a valuable opportunity to engage people with the superannuation system. In a competitive market, paid advertising of MySuper products that are likely to be appropriate for a wide range of consumers should not be prohibited.

Aware Super does, however, support improving the experience for consumers reviewing a selection of products. To help empower employees to make informed decisions about their superannuation during onboarding, we recommend:

- maintaining the existing regulatory requirement for **clear disclosure** where products are advertised at the point of onboarding through a commercial arrangement (not required for display of employer default funds);
- a ban on paid advertising of **underperforming products** and non-MySuper products at the point of onboarding; and
- development of an **integrated API solution** that allows an individual's existing account(s) to be displayed alongside an employer's chosen default fund and any other funds listed during a digital onboarding process.

These changes would allow for the safe, ongoing use of digital onboarding solutions, and improve member outcomes by allowing them to see their stapled fund and make an informed choice.

Information about defaults is crucial

Employers often see the default super fund they have chosen as a key employment benefit, and it is important that this can be promoted – particularly where there are key benefits for an employee to consider. For example, for individuals commencing in high-risk occupations, it is important that they consider where tailored insurance might be available from the employer's default fund.

Aware Super would have serious concerns about any reforms to onboarding practices which reduced the ability to provide information and education regarding employer defaults.

Recommendation

3. Commence development of an API solution for onboarding that supports display of an individual's existing fund(s) during onboarding, alongside the employer default and other options.
4. Do not mandate a digital ATO solution for stapling.
5. Ban commercial arrangements for advertising of underperforming products and non-MySuper products at the point of onboarding.

Appendix A: Responses to Consultation Questions

Question	Comments
1. What implementation issues could arise if 'payday' is defined as being each time a payment is made to an employee with an OTE component?	Model design needs to consider: • The capacity of employers to comply with the proposed 'payday' models, particularly if super is required to be paid on the same day as wages. • The capacity of large payroll systems and banks to manage increased transaction volume in shorter timeframes, especially those involving multiple awards, various pay cycles, and self-managed super fund accounts. • The capacity of clearing houses and ATO systems to meet tighter compliance timeframes for data validation and exceptions, and the risk payment processing delays for employers. • The capacity of the bulk electronic clearing system (BECS) to respond to more frequent and faster payment processing periods.
2. What implementation issues could arise when more regular SG payments are mandated?	Systematic and functional impacts on employers include: • The capacity to afford new or additional payroll system build to make more frequent super contribution payments. • The capacity for employers to manage increased data matching and reporting activity with the ATO via the Member Account Attribute Service (MAAS) and Member Account Transaction Service (MATS) – specifically: - the capacity to prepare raise large daily wage and super payment data files for timely payment processing; - the capacity to resolve incorrect data exceptions and rejections in a significantly shorter timeframe and manage compliance risk; and - the capacity for clearing house and ATO systems to respond to higher processing traffic and prevent delays to employer super contribution remittance.
3. Are there any advantages or disadvantages with the requirements of payday super being fulfilled if employers make the payment of SG contributions on 'payday' (i.e. the employer payment model)?	It is important that the principle of compliance is balanced with providing sufficient time for employers to prepare and lodge payroll files for payment; and data validation follow up causing delays (such as rejections, refund requests and revising any incorrect employee details provided). *See Q1 response.*

4. Are there any advantages or disadvantages with the requirements of payday super being fulfilled if the employee's superannuation fund has received employer contributions a certain number of days after payday (i.e. the due date model)?	*See Q3 response.*
5. Should there be a standardised due date for SG contributions depending on different pay cycles, independent of the frequency to when salary and wages are paid?	*See Q1 response.*
6. Would requiring a new reporting mechanism for employers under an employer payment model to the ATO on payday increase compliance burden?	Any proposal for a new reporting service to the ATO for employers to use would increase compliance burden. Reasoning for such a requirement should consider whether a new service benefits employers and the ATO with applying SG compliance assessment. Otherwise, a new reporting service would be a significant cost to employers without gain.
7. How would intermediaries continue to be incentivised to expedite the processing of employer contributions under an employment payment model?	Intermediary payment platforms would need to meet the regulatory intent of payday super. Treasury should further consult industry stakeholders on mechanisms that would assist intermediary contribution processing timeframes.
8. Given reduced payment processing times facilitated by modern payment platforms, is a due date of 3 days after payday for superannuation contributions under a due date model feasible? What would prevent this timeframe?	While modern payment platforms offer reduced payment processing times, data quality provided by parties will cause delays in processing, which may take an employer a few days to resolve (e.g. 5 days). As noted in response to Q3 - it is important that the principle of compliance is balanced with providing sufficient time for employers to prepare and lodge payroll files for payment; and data validation follow up causing delays (such as rejections, refund requests and revising any incorrect employee details provided). Treasury should consult employer groups further to factor in data validation, opportunity for employer information collection alignment with MAAS data requirements, and processing timeframes.
9. What impact would shorter payment timeframes have on clearing houses and other financial intermediaries that facilitate the payment of superannuation contributions to funds?	Impacts of shorter payment timeframes for clearing houses and intermediaries may include: • ensuring systems are fit for purpose to accommodate both employers undertaking payday super already - and planning for a future mandated payday super model; • bolstering data validation and risk processes to manage increased data volume and errors; and • cost implications due to increased processing.
10. Would shorter payment timeframes require regulation of these financial intermediaries to ensure payment timeframes are met?	Regulation mechanisms would need to consider financial intermediary payment timeframe compliance.

11. How can the payday super model be designed to ensure it can adapt to changes and innovations in payment and data platforms?	Keeping data requirements appropriate, consistent, and simple will assist with the payday model's ability to adapt to future payment and data platform innovation.
12. What are the benefits or risks associated with allowing multiple payment methods and how might this affect payments processing for clearing houses and superannuation funds? Would there be benefit or risks in only allowing one payment platform (such as the NPP)?	A single payment platform would be more efficient as it would reduce the need for funds to build multiple payment process and reconciliation system. Funds would be required to build multiple solutions if multiple payment methods are allowed. Treasury would need to consider how multiple payment methods would be regulated to ensure validations are complied with.
13. What is the appropriate timeframe for ATO reconciliations? For example, fortnightly or monthly? Should the timeframe differ depending on the frequency of payday or would a standard timeframe be more appropriate?	Standardised fortnightly or monthly reconciliations would be considered an appropriate timeframe for ATO reconciliations. Treasury should further consult industry stakeholders on co-designing a payday super model.
14. Should there be a mechanism whereby employers can pay SG charge they know they have accrued, prior to the reconciliations and assessments being issued? How should this occur?	Employers would benefit from an ATO mechanism that would allow them to pay super guarantee charge accrued prior to reconciliations and assessments being issued. Mechanism design could involve an online interface like myGov where employers could manage and pay SG charge in aggregate transfers of funds.
15. Should the LPO and carry forward of late payments remain a feature of the SG compliance system in a payday super model? Could an alternate system be adopted whereby late payments apply retrospectively to the earliest period outstanding?	Compliance should include appropriate penalty and deterrence mechanisms while accounting for circumstances beyond an employer's control such as clearing house data processing delays. Treasury should undertake further consultation with employer groups on compliance as part of pay day super model co-design with industry.
16. Should late SG contributions be tax deductible under certain circumstances, for example when an employer amends the SG charge before it is assessed by the ATO?	Late SG contributions should be tax deductible under certain scenarios - for example when an employer amends the SG charge before it is assessed by the ATO.
17. What kind of prompts or nudges could be provided to employers to be aware of and meet their SG obligations on time?	Employers would benefit from ATO communication about meeting their SG obligations on time, including for example: • nudges from the ATO advising of a notification; and • providing an ATO online interface to access SG reconciliation information from single touch payroll or MATS. *See Q14 response.*

18. Are there more appropriate incentives outside of the LPO to encourage employers to pay SG in a timely manner?	*See Q15 response.*
19. Would changes to the SG charge be required to ensure the charge remains adequately punitive for non-compliant employers?	Aware supports an SG system that ensures non-compliance is deterred. *See Q15 response.*
20. Does the current nominal interest rate of 10 per cent per annum adequately compensate employees for the foregone interest that would have accrued in the fund had their super been paid on time?	This year, the General Interest Charge has provided an annual rate of 11.15%, sitting higher than the current nominal rate of 10%. In previous years however, the nominal rate outperformed the GIC. As a result, the higher rate of either option would compensate employees for the foregone interest that would have accrued in the fund had their super been paid on time.
21. Does a nominal interest charge of 10 per cent per annum remain appropriate in a payday super model? Or are there alternative models that could address different degrees or severity of lateness?	*See Q20 response.*
22. How should the administrative component of the charge apply? Is per employee, per ATO reconciliation period appropriate, considering your responses above to the appropriate timeframes for ATO reconciliations?	It is considered appropriate to apply a reasonable rate based on per employee and per reconciliation for the administrative component of the charge.
23. Should the amount of the administrative component of the charge be changed? If so, what is the appropriate amount, and why?	*See Q22 response.*
24. Given that the current SG charge is not tax deductible, are there any circumstances where a non-compliant employer should be able to make a tax deduction for the SG charge paid?	Treasury should further consult with employer groups on this question.
25. Are there any other changes to the components of the SG charge that should be considered in the move to a payday super model, in the context of the purpose of the charge? For example, should the punitive aspects of the charge be more proportionate to the size of the noncompliance (that is, the size of the debt)?	There are no other suggested changes to the components of the SG charge that should be considered in the move to a payday super model, in the context of the purpose of the charge.

26. What should 'additional behavioural penalties' look like in a payday super model?	Any additional 'additional behavioural penalties' in a payday super model should consider continuous non-compliance and penalties for deterrence.
27. Would granting the ATO flexibility to remit the SG charge in certain circumstances on the part of the employer risk the integrity of the SG charge?	Granting the ATO flexibility to remit the SG charge in certain circumstances on the part of the employer would not risk the integrity of the SG charge.
28. If you consider that the ATO should have some discretion to remit the charge, under what discrete circumstances should this be able to occur?	Some instances where the ATO could apply some discretion to remit the charge may include significant factors such as natural disasters, or clearing house events that may cause delay in remitting the SG charge. Consideration would need to be given to monitoring and reporting requirements for proof of delay. Clearing house systems would need to be upgraded to advise employers when their payment has not been successful in reaching the super fund.
29. Should any discretion to remit the SG charge apply to the entire amount due or only to certain components? For example, scope could be given to the ATO to remit the nominal interest and administrative components of the SG charge but not the SG shortfall.	It is considered appropriate for the ATO to carry responsibility for all aspects of the SG charge process.
30. Would it be appropriate for the ATO to have discretion to extend the due date for the SG charge? If so, in what circumstances would this be appropriate? Further, what would be an appropriate time period for any extension? Should there be a limit on this?	Providing the ATO discretion to remit the SG charge should cover extensions.
31. Should employers be allowed to make 'catch-up' contributions due to errors?	It would not be considered problematic for employers to make catch up contributions due to errors. However, funds find refund requests burdensome to assess, reconcile and report adjustments to the ATO to align to the respective pay period and date banked. This process is hindered where there is a lack of relevant data from employers.
32. What would be a reasonable time period to allow employers to make 'catch up' contributions that aligns with the intent to pay superannuation alongside wages? Should this time period differ depending on payday frequency?	Employers should be allowed make 'catch up' contributions where they align with the intent to pay superannuation alongside wages. It would be appropriate for employers to issue catch up contributions ad-hoc as soon as possible or next payday.
33. What are the challenges in correcting SG payments under a payday model? Is this an efficient way for employers to	An integrated solution that links transaction data and original contribution information would assist with correcting SG payments under a payday model. An integrated solution that also connects with ATO MATS

make corrections? Should error messages be standardised across funds?	reporting would make it more efficient for employers to correct information, to receive error notifications and make catch up payments and refund requests. Error messaging should assist with informing employers what course of action is required to correct SG payment. Treasury should consult industry stakeholders further on error messaging standardisation.
34. Is the 20 business day time period for superannuation funds to resolve errors appropriate in a payday super model?	Super funds should be given a reasonable period to resolve errors in a payday super model. Where a contribution cannot be made to a super fund account due to error, it should be rejected back to the employer quickly for rectification. It is imperative employers can validate payroll data as early as possible to improve data matching with the ATO and funds for single touch payroll, contribution and MATS reported data. Treasury should consult super fund stakeholders further to understand timeframes needed for error resolution.
35. Under a 'due date' model, would it be appropriate for a period of grace to apply after the due date for SG contributions? If so, should the grace period apply automatically? Or should it be applied at the ATO's discretion in certain limited circumstances?	It would be considered appropriate to provide a grace period for SG contributions after a date due at the ATO's discretion to account for certain circumstances. (It is important to note however that a grace period would delay employees receiving their SG contributions).

36. Would a digital ATO service simplify the choice of fund process and assist employees and employers to confirm the right super details? What functionality would be required? Would this address issues with data integrity under a payday super model? Should such a service be mandated?	Solutions that support the provision of quality data and upfront validation and simplify employer compliance should be encouraged. This includes digital services aligned with payroll providers. However, any digital solution, including any ATO tool, should remain voluntary to encourage innovative and tailored solutions.
	
	Aware Super supports changes that:
	• improve the process of fund choice at employee commencement; and
	• streamline this process for employers and individuals by:
	    - improving information collection and data validation at the outset; and
	    - preventing the unintended creation of duplicate accounts.

37. What are the costs and benefits of requiring employers to offer stapling to employees? Are there other changes that could be made to the choice of fund process? Could a digital ATO service reduce the administrative burden associated with stapling?	To reduce unintended non-compliance with payday super, it is essential that employee information can be appropriately aligned with super fund data. This will help to minimise payment delays due to mismatched data between the employer and a super fund. This can be supported by ensuring employees have access to information to inform choice, including: • ability to see and choose from an existing stapled account along with an employer's chosen default fund where possible (see below); • choice of fund; and • ease of accessing superannuation product information to assist informed decision-making.

38. What are the costs and benefits of a ban on advertising super products during onboarding?	Aware Super strongly supports retaining the consumer choice moment that is central to the current stapling framework. Onboarding platforms are a valuable opportunity to engage people with the superannuation system. In a competitive market, paid advertising of MySuper products that are likely to be appropriate for a wide range of consumer should not be prohibited. Aware Super does, however, support improving the experience for consumers reviewing a selection of products. To help empower employees to make informed decisions about their superannuation during onboarding, we recommend: • maintaining the existing regulatory requirement for clear disclosure where products are advertised at the point of onboarding through a commercial arrangement (not required for display of employer default funds); • a ban on paid advertising of underperforming products and non-MySuper products at the point of onboarding; and • development of an integrated API solution that allows an individual's existing account(s) to be displayed alongside an employer's chosen default fund and any other funds listed during a digital onboarding process.
39. How could a smooth transition be managed to aligning STP, SuperStream, MAAS and MATS reporting, either through changing the reporting requirements to year-to-date values or transaction-based reports?	A significant and costly overhaul would be required to align STP, SuperStream, MAAS and MATS reporting. Treasury should engage industry stakeholders further on any considerations toward altering reporting mechanisms. Any alterations should include a phased approach towards implementation, starting with the easiest changes.
40. How could a smooth transition be managed if additional fields in reporting are made mandatory?	*See Q39 response.*
41. Should a new unique identifier be included as a mandatory field in STP, SuperStream, and MATS which links employers, employees, and transactions?	There is no benefit to the super system by including a new unique identifier across STP, SuperStream, and MATS which links employers, employees, and transactions. Adding a new data element for all three reporting mechanisms would be at a significant cost to the entire industry. The ATO should first identify what additional data they require now to assist in SG compliance reconciliation, and followed by consulting industry on what may require additional consideration.
42. Are there any issues or consequences with including an employer's SG liability and OTE as a mandatory, rather than optional field in STP reporting?	Treasury should further engage with employer groups to understand the impacts of including an employer's SG liability and OTE as a mandatory field in STP reporting.
43. What is the best mechanism to avoid disadvantaging employees who would reach the concessional contributions cap in 2026-27 due to the accounting of SG contributions in the year the policy commences?	Requiring correct pay periods to be reported in CTR and MATS messaging would assist with alleviating impacts for employees reaching the concessional contributions cap in 2026-27. This mechanism would allow the ATO to assess individuals based on the data they have on hand.

	Treasury should further engage with employer groups to inform appropriate mechanisms for accounting SG contributions in the year the payday super policy commences.
44. On what period should the maximum superannuation contribution base be calculated in a payday super model? Would there be issues if it remained a quarterly calculation? Are there any other mechanisms that could help prevent employers paying over the concessional contributions cap for employees?	A quarterly calculation of a maximum superannuation contribution base in a payday super model would be impacted by factors such as: • regular wage variability where monthly amounts differ due to commissions; and • where pay increases occur mid-quarter. Treasury should further engage with employer groups to inform appropriate calculation methodology for superannuation contribution base and concessional contributions cap payments.
45. Are there any other changes that will be required for defined benefit members?	In general, defined benefit funds are funded by notional contributions. Consequently, payday super frequency should not alter the DB fund model, unless the employer who contributes to DB funds pays SG to a separate super fund.
46. Should there be any changes to the reporting frameworks for SMSFs and/or Defined Benefit funds to the ATO?	Reporting frameworks to the ATO for defined benefit funds is considered appropriate. No comment can be provided on whether reporting changes should be considered for SMSFs.
47. Are there any other changes that will be required for self-managed superannuation fund members?	Any changes required to SMSF reporting and/ or self-managed super fund members should be based on consultation specifically with SMSFs.
48. Are there any other impacts on stakeholders or considerations Government should consider in policy design?	Treasury should engage with industry to co-design a preferred payday super model and ensure unintended impacts are addressed.
49. What further changes would be required under the current rules to allow employers to meet payday super requirements?	No further changes suggested at this time.