Pay Day Superannuation Guarantee Consultation

Consultation Questions:

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?

Response:
Adjustment payruns sometimes result in negative superannuation. How would these be treated? Examples include: adjustment for overpayment of wages, & adjustment where OTE is reduced & replaced with overtime hours.

2. What implementation issues could arise when more regular SG payments are mandated?

Response:
Concerned less with the frequency of payments but rather the time constraints to process on the same day as the payrun.

3. Are there any advantages or disadvantages with the requirements of payday super being fulfilled if employers make the payment of SG contributions payday (employer payment model)?

Response:
Same day SG adds a further burden to time management on an already busy day. If a payrun is not completed until late in the day this would add further pressure & may delay payment to the clearing house until the following day.
Super uploads to the clearing house are not always successful on the first attempt & may take some time to identify & rectify the reason for failure.

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 (due date model)?

Response:
For the reasons mentioned in my response to Q3, I am in favour of a Due Date approach rather than Pay Day option. This would provide the leeway to upload super the day following the payrun.
Employers should not be penalised for delays occurring between the authorisation of payment to the clearing house & super funds depositing to member accounts.

5. Should there be a standardised due date for SG contributions depending on different pay cycles, independent of the frequency to when salary & wages are paid?

Response:
Due date should be a realistic number of days after pay day. That is, time to be processed by payroll, go through the clearing house, to the super fund & distributed to members.

6. Would requiring a new reporting mechanism for employers under an employer payment model to the ATO on payday increase compliance burden?

Response:
This would be a matter for the software providers to implement. My concern again is time constraints on payday.

7. How would intermediaries continue to be incentivised to expedite the processing of employer contributions under an employment payment model?

Response:
Clearing houses & superannuations funds should be accountable for prompt processing of received funds & penalised for non-compliance.

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?

Response:
From a payroll perspective, we could have the payment uploaded to the clearing house in three days; however, if it is required to be deposited to the members account within 3 days this imposes same day processing back on payroll (prefer next day at earliest). Employers are not responsible for time taken to process through the clearing house, to the fund & fund to distribute to members.
Question: is that 3 business days or 3 calendar days?

9. What impact would shorter payment timeframes have on clearing houses & other financial intermediaries that facilitate the payment of superannuation contributions to funds?

Response:
For Clearing house response. We do find that the direct debit by our clearing house occurs on the day **after** our payment authorisation.

10. Would shorter payment timeframes require regulation of these financial intermediaries to ensure payment timeframes are met?

Response:
I believe so. The onus for timely payment does not rest solely on the employer.
Most common impediment to upload is changes within super funds such as mergers & changes to ABN/USI

11. How can the payday super model be designed to ensure it can adapt to changes & innovations in payment & data platforms?

Response:
This is a question for software providers

12. What are the benefits or risks associated with allowing multiple payment methods & how might this affect payments processing for clearing houses & superannuation funds? Would there be benefit or risks in only allowing one payment platform?

Response:
Benefit of one payment platform - consistency in the processing time
Would all employers have access to the one platform? Is that an imposition to employers to have a special payment platform?
Best answered by software providers, clearing houses & funds

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?

Response;
I think a timeframe based on pay cycles. For example, monthly payments might have reconciliations in the following month. Fortnightly pay periods might be reconciled in the fortnight following. The reconciliation may need to be at a later date if the Due Date model is adopted compared to the Pay Day model.

14. Should there be a mechanism whereby employers can pay SG charge they know they have accrued, prior to the reconciliations & assessments being issued? How should this occur?

Response:
This is a good suggestion if by doing so, penalties can be reduced. This should benefit the ATO by making reconciliation easier. Maybe through an ATO portal,with a BPay reference.

15. Should the LPO & 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?

Response:

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?

Response:
This would incentivize employers to identify their own errors & omissions, & simplify reconciliations for the ATO.

17. What kind of prompts or nudges could be provided to employers to be aware of & meet their SG obligations on time?

Response:
It is the responsibility of employers to know their superannuation payment dates; however, a notice of mail (similar to Services Aust mail) email to prompt payments which may have been inadvertently overlooked.

18. Are there more appropriate incentives outside of the LPO to encourage employers to pay SG in a timely manner?

Response:
The most common cause of funds being returned is change of membership by employee & not advising employer. Employers should not be penalised for this as a late payment if the original payment was made on time & repayment is made in a timely manner.

19. Would changes to the SG charge be required to ensure the charge remains adequately punitive for non-compliant employers?

Response:
For employers who deliberately withhold or short pay SG, the penalties should be more substantial than for genuine errors.

20. Does the current nominal interest rate of 10% p.a. adequately compensate employees for the foregone interest that would have accrued in the fund had their super been paid on time?

Response:
I would think that would vary depending on the economic climate & the investment of that superannuation product.

21. Does a nominal interest charge of 10% p.a. remain appropriate in a payday super model? Or are there alternative models that could address different degrees or severity of lateness?

Response:
For employers who deliberately withhold or short pay SG, the penalties should be more substantial than for genuine errors.

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?

Response:
Still appropriate

23. Should the amount of the administrative component of the charge be changed? If so, what is the appropriate amount & why?

Response:
The admin charge has not changed in 20 years so an increase would be reasonable; however, it should be pro-rata to reflect the shorter period, not increase from $20 per quarter to $20 per fortnight.

24. Given that the current SG charge is not tax deductible, are there any circumstances where a on-compliant employer should be able to make a tax deduction for the SG charge paid?

Response:
If the reason for the charge was unavoidable by the employer

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 non-compliance debt?

Response:
Perhaps it would be appropriate to implement an increase in the penalty for the length of time SG remains unpaid, & not on the value of SG or the number of employees.

26. What should additional behavioural penalties look like in a payday super model?

Response:
Penalties for length of unpaid debt & for consistent late payment.
Penalties for employers who display behaviours consistent with deliberate late or underpayments.

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?

Response:
It would be recognising that sometimes unavoidable situations occur & would not penalise the employer for something beyond their control.

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?

Response:
Natural disasters, software/electricity failure, information not received (from employee, stapled super, including returned payments), genuine errors (eg. new pay item which should calculate super but doesn't - allow one period grace to fix the error), illness/accident of crucial staff

29. Should any discretion to remit the SG charge apply to the entire amount due or only to certain components?

Response:
The shortfall in SG should not be excused but the penalty for lateness could be especially if paid within a few days of due date.

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?

Response:
That is at the discretion of the ATO to determine based on circumstances.

31. Should employers be allowed to make catch up contributions due to errors?

Response:
Yes, this gives employers a chance to correct errors & remain compliant.

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?

Response:
A month would usually be sufficient time to rectify returned contributions although I have had them returned three months after they were paid. A month should be sufficient regardless of pay frequency. By the next pay period may be sufficient for fortnightly cycles but a week may not be long enough for weekly pay cycles.

33. What are the challenges in correcting SG payments under a payday model? Is this an efficient way for employers to make corrections? Should error messages be standardised across funds?

Response:
Standardised error messages would be helpful, it's not always clear what the problem is.
Time could be a challenge if in the regular payrun - another task to add to the payrun & may be requiring information to be able to reprocess. We usually correct super in separate payruns when we are not pushed for time & it has greater transparency.

34. Is the 20 business day time period for superannuation funds to resolve errors appropriate in a payday super model?

Response:
Super funds may have other opinions but they should play their part in reducing processing delays.

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?

Response:
If the due date is set with realistic timeframes it should only be in exceptional circumstances that the date be extended (ref Q28). This could be at the ATO's discretion on application.

36. Would a digital ATO service simplify the choice of fund process & assist employees & 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?

Response:
Yes please. Super stapling is a good idea but it requires an employment relationship first. If this relationship could be removed before we are able to access that would solve many problems; existence of fund membership, correct USI & ABN of fund, delay caused by incomplete or incorrect details.

37. What are the costs & 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?

Response:
If the employee &/or employer could access the existing Stapled Super information during the onboarding process that would help immensely. Employees appear to be lazy when it comes to providing super details, choosing the easy option of selecting the default fund.

38. What are the costs & benefits of a ban on advertising super products during onboarding?

Response:
I didn't think employers were supposed to encourage a particular fund or product, other than offering a default fund. That would be providing financial advice which we in payroll are advised against.

39. How could a smooth transition be managed to align STP, SuperStream, MAAS & MATS reporting, either through changing the reporting requirements to year-to-date values or transaction-based reports?

Response:
This is for the software developers but per transaction reports are usually easier to reconcile. YTD values will not show where any discrepancies have occurred.

40. How could a smooth transition be managed if additional fields in reporting are made mandatory?

Response:
Another question for software developers

41. Should a new unique identifier be included as a mandatory field in STP, SuperStream & MATS which links employers, employees & transactions?

Response:
If there was an employer code & a super member code I would imagine the reports would be easier to align. The employer code should be the same for all funds.

42. Are there any issues or consequences with including an employer's SG liability & OTE as a mandatory, rather than an optional field in STP reporting?

Response:
Another question for software developers

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?

Response:
Could the concessional cap be raised as a one off for this year?

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?

Response:
Dividing the annual cap by the number of pay periods in the financial year & setting a cap per pay period. Some employees exceeding the cap prefer to spread their SG evenly rather than receiving in the first few pay periods until they reach the cap.
If payments are irregular perhaps they can still calculate on a quarterly cap.

45. Are there any other changes that will be required for defined benefit members?

Response:
I've not had any experience with defined benefits

46. Should there be any changes to the reporting frameworks for SMSFs &/or Defined Benefit funds to the ATO?

No Response

47. Are there any other changes that will be required for self-managed superannuation fund members?

Response:
SMSF members may require a member number for matching as suggested in Q41 for STP & SuperStream.

48. Are there any other impacts on stakeholders or considerations Government should consider in policy design?

49. What further changes would be required under the current rules to allow employers to meet payday super requirements?