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The Treasury

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## Securing Australians' Superannuation Budget 2023-24

Thank you for the opportunity to provide a submission in response to the consultation paper - Securing Australians' Superannuation Budget 2023-24.

Australian Retirement Trust (ART) is one of Australia's largest superannuation funds. 2.3 million Australians trust us to take care of over \$260 billion of their retirement savings. We receive contributions from more 180,000 employers. We are also a large employer of more than 2,800 people.

ART welcomes the Australian Government's focus on addressing structural drivers of unpaid superannuation guarantee (SG) through the Securing Australians' Superannuation package of reforms.

A component of this package is an obligation on employers to increase the frequency that they pay their employees' SG contributions i.e 'payday' superannuation. We acknowledge this reform will be a significant change for industry participants and we reinforce in our submission:

- ART believes that payday superannuation is in the best financial interests of our members.
- Current data quality and payroll system limitations need to be addressed to fully enable the benefits of payday superannuation.
- The critical enabler to improved outcomes is ensuring ATO-stapled fund services are expanded to include data to ensure accurate member matching and made available to be consumed by employer technology platforms at scale and in real time. A 'source of truth' for member-level data will simplify the accuracy of contribution allocation and will lower exceptions.
- The ATO should remain responsible for the burden of compliance. To that end, the ATO should look to utilise existing reporting frameworks and mechanisms.
- ART believes in encouraging informed choice by members and does not support a blanket ban on advertising during onboarding. At a minimum, during onboarding a member should be aware of their existing superannuation fund and the employer's default fund.

The main body of our submission addresses the consultation questions raised by Treasury. ART has provided answers to the consultation questions where we feel we can add most value to Treasury's considerations. We trust this feedback will be beneficial to Treasury's considerations and would welcome the opportunity to discuss our submission in further detail.

Chris Ramsay, Senior Manager Policy and Government Relations, is the primary Australian Retirement Trust contact regarding our submission and can be contacted at [Christopher.Ramsay@art.com.au](mailto:Christopher.Ramsay@art.com.au).

Yours sincerely,



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## Securing Australians' Superannuation Budget 2023-24

### Australian Retirement Trust responses

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

Australian Retirement Trust (ART) supports SG contributions being deposited into members' accounts as soon as possible after the payment of salary and wages.

ART is the default fund for Queensland Government employees under Queensland legislation. Queensland Government employers and their payrolls are required, under the same legislation, to make contributions to the default fund, or the employee's chosen fund, within 1 week after the end of a pay period (which is fortnightly).

This timing difference between the employee's payday and paying the required superannuation contribution gives Queensland Government employers the time to reconcile their data to calculate the required superannuation contributions before they are submitted, which reduces the risk of required corrections.

Further, as a large, self-administered superannuation fund, we see consistent evidence that payroll data and member information held by the fund is not fully aligned. On implementation of 'payday' superannuation, there is a risk that data exceptions in the allocation of contributions increases in the first 12 months. However, as payroll systems and superannuation funds improve post-implementation, we would expect the data to normalise and data processing to become more efficient.

### Consultation questions

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)?
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)?
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?
6. Would requiring a new reporting mechanism for employers under an employer payment model to the ATO on payday increase compliance burden?
7. How would intermediaries continue to be incentivised to expedite the processing of employer contributions under an employment payment model?
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?
9. What impact would shorter payment timeframes have on clearing houses and other financial intermediaries that facilitate the payment of superannuation contributions to funds?
10. Would shorter payment timeframes require regulation of these financial intermediaries to ensure payment timeframes are met?
11. How can the payday super model be designed to ensure it can adapt to changes and innovations in payment and data platforms?
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)?

When considering the employer payment model, ART believes there is benefit to members as a contribution is remitted as quickly as possible. Additionally, employers paying superannuation as a regular business disbursement is a positive change to a system where superannuation has traditionally been an out-of-pay cycle obligation.

ART considers a 'due date' model will allow employers the time to make corrections to contributions prior to submitting contributions data. The due date in this context would be for an employer to remit contributions to a clearing house or direct to each superannuation fund within a prescribed number of days.

When considering the appropriate prescribed number of days, modern payment platforms do not currently have the scale and maturity to process on behalf of the entire Australian working population within 3 days as suggested by the consultation paper. ART believes this will be technically achievable when data transmission between payroll and superannuation funds is improved. If a due date model is implemented, regular reviews of the capability of the system should be considered by the Australian Government with the view of shortening the due date as capabilities improve.

The critical enabler to improved outcomes is ensuring ATO-stapled fund services are expanded to include critical data to ensure accurate member matching and made available to be consumed by employer technology platforms at scale and in real time. If industry participants have a 'source of truth' for member-level data, it will simplify the accuracy of contribution allocation and lower exceptions. Services should be made available prior to or at the start date of the measure.

For superannuation contributions to be received by super funds within a prescribed number of days after payday raises the issue as to who is responsible for the SG charge assessment if the contribution is received by the fund after the number of prescribed days. ART recommends creation of allowance for an employer to comply when they have taken all necessary steps to meet the timeframe but fail to meet it due to circumstances beyond their control. For example, when payment has been made using employee supplied information to a fund that has been closed.

Notwithstanding that implementing a reform of the scope of payday superannuation will inevitably require changes in existing operations for employers, funds, clearing houses and intermediaries, ART considers the ATO should remain responsible for the burden of compliance activities. To that end, the ATO should look to utilise existing reporting frameworks including MAAS/MATS and Single Touch Payroll reporting mechanisms where possible. It is recommended that a reference group be established to design the payday super regime, consisting of representatives from Treasury, the ATO, the superannuation industry, intermediaries (including the banking industry), and employers (including payroll providers).

When considering the roles of intermediaries and clearing houses, ART notes they are not subject to obligations under these proposed reforms. However, to ensure the effect of these reforms is aligned with their intent, ART considers all participants should be subject to similar obligations.

Intermediaries are likely to have a significantly higher volumes of transactions to process. Normal volume based or software subscription models are likely to increase in price. The impact will be increased expense to employers but the incentive for intermediaries will be an increase to revenue.

Most clearing house providers generate income from bank float in the handling and passing on of contributions. A shortened timeframe to 'clear' payments is likely to reduce clearing house income and lead to increased per-transaction pricing to employers.

ART considers that in a competitive market, innovative approaches to payments will be considered by clearing houses and intermediaries; for example, a clearing house model that transfers real time data and enables direct payment from an employer to the fund. However, if delays in transfers of payments to funds are occurring without good reason, regulation of payment transfer timeframes could be an update to SuperStream that better supports the intent of this legislation.

ART considers the payment platform used should be technology neutral to stimulate innovation in this field. A singular vehicle for payments to suit employers of every segment is not viable. Multiple payment options gives an employer the flexibility to comply in a way that best suits the needs of the business.

#### Consultation questions

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?
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?

A monthly reconciliation timeframe would be appropriate if it allows for exception processing Contribution Transaction Error Responses (CTER) and refunds back to employers. The reconciliation will require alignment of data sets and the conditional rules for submitting data across existing contribution and reporting processes.

There should be a mechanism whereby employers can pay the SG charge they know they have accrued prior to the reconciliations and assessments being issued. However, this should not give rise to employers paying their superannuation contributions late. For this reason, the SG charge should apply

from the day after the employer was obliged to make the payment, and an administrative charge or other penalty payment should be considered after the end of a grace period.

#### Consultation questions

31. Should employers be allowed to make 'catch-up' contributions due to errors?
34. Is the 20 business day time period for superannuation funds to resolve errors appropriate in a payday super model?
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?

Employers should be allowed to make 'catch up' contributions due to errors, but also to recover any amounts that may have been overpaid – these instances are expected to increase as the frequency of superannuation payments increases, in particular within industries with complex industrial arrangements.

The timeframe of 20 business days to correct errors requires revision, as it would otherwise lead to employers accruing a backlog of exceptions and increase the complexity of any reconciliations.

Further, review is required of the use of error messaging across the industry to ensure consistency of treatment when sending and receiving contributions.

A period of grace under the 'due date model' should apply automatically for administrative simplicity purposes. However, the ATO may consider audits of those employers who consistently pay their superannuation contributions after the due date.

#### Consultation questions

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

An ATO service that integrates with employer technology platforms would enable greater efficiency. The ideal model would allow an employer to look up a new employee's stapled fund in platform to allow efficient payday superannuation contributions. This would require consideration of how an employer can be linked to a new employee for the purposes of the service. It would also require the ATO to offer a highly available and scalable solution. This solution should not be mandatory; however, ART supports the concept that an employer should offer a stapled fund to a new employee before it offers choice. The reason this has not been effective to date is the lack of a central and reliable ATO service that can be consumed in employer technology in real time.

Stapling aims to reduce multiple accounts with the benefit to members being the reduction of the impact of fees from multiple accounts on overall retirement income balances. This aligns with members' best financial interests. Having said that, we have observed that because stapling requires employer action,

this can lead to member inertia. We tested member behaviour between the offer of a visibly higher performing product and the choice of taking no action i.e. remain with stapled fund. For one employer cohort only 30% of members stapled to an existing fund chose to join the visibly better performing fund, while at another employer only 10% chose to join the higher performing fund. Considering these results, we note that further work is required to increase member engagement. Once an employee has been stapled to their existing fund they should also have the ability to make an informed choice. ATO systems would need to be updated to support a technology first approach.

ART does not support a blanket ban on advertising during onboarding. ART believes in encouraging members to make an informed choice of fund. To that end, at a minimum, a member should be aware of their existing superannuation fund and the employer's default fund. The latter is relevant as some default funds provide certain benefits the employee should be aware of (such as negotiated lower fees or tailored insurance arrangements).

A ban on advertising superannuation products during onboarding may further lower member engagement and leave members stapled to an underperforming fund for a longer period. As a third-party provider, onboarding platforms have the potential to facilitate informed choice of fund but curation of this service needs to be regulated and in members' best financial interests.

#### Consultation questions

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?
40. How could a smooth transition be managed if additional fields in reporting are made mandatory?
41. Should a new unique identifier be included as a mandatory field in STP, SuperStream, and MATS which links employers, employees, and transactions?
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?

Alignment of data elements and including mandatory fields would be beneficial, assist with data quality issues and be critical to any reconciliation process. Funds can only report data that is provided by employers.

Including a mandatory field in STP reporting for the employer's SG liability should consider the following issue:

- Many employers, either under an industrial agreement or State legislation, are required to make employer contributions more than their SG liability under the SG Act.

The SG Act allows the Commissioner to issue an employer shortfall exemption certificate that sets the maximum contribution base to Nil. This measure ensures that an employee does not exceed the concessional cap. Queensland State legislation also allows an employee and an employer to reduce their salary for superannuation purposes, so that the employer contribution will not exceed the concessional cap.

#### Consultation questions

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?

For the purposes of working out an individual's excess concessional contributions for a financial year, the *Income Tax Assessment Act 1997* provides the Commissioner with the discretion to make a determination to disregard concessional contributions or allocate them to another financial year. Employees must apply to the Commissioner for making the determination.

Consideration should be given to streamlining this process to allow the Commissioner to make such a determination on the Commissioner's own initiative (i.e. without requiring the individual to make an application). This would be in consistent with the 'Super Guarantee Amnesty' consequential amendments as enacted by the *Treasury Laws Amendment (Recovering Unpaid Superannuation) Act 2020*.

#### Consultation questions

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

Employer contributions for defined benefit members are not individually allocated to the member but rather invested in a pool. The required level of employer contributions is prescribed under the relevant scheme rules, which can include a contribution holiday where the scheme is in surplus. There are also unfunded public sector schemes, where employer contributions are not made to the fund but to a State jurisdiction which then funds benefits as they fall due. The ATO reconciliation should exclude defined benefit interests and a mechanism is required to identify members who have these interests.

#### Consultation questions

46. Should there be any changes to the reporting frameworks for SMSFs and/or Defined Benefit funds to the ATO?
47. Are there any other changes that will be required for self-managed superannuation fund members?

The reporting mechanism by funds for defined benefit members to the ATO is not expected to require any changes. Defined benefit funds report notional taxed and defined benefit contributions to the fund, which are notional figures and different to the contribution made by the employer. For this reason, the ATO reconciliation should not extend to defined benefit interests.

#### Consultation questions

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?

ART considers the Australian Government should give further consideration to the following:

#### 1. Data Security Perspective

At present the SuperStream, Standard Business Reporting (SBR) and STP specification rely heavily on significant Personal Identity Information (PII) data elements. This data transits across various employer, third-party supplier and fund-based technology solutions. Each of these components and the links between them are subject to appropriate approaches in accordance with governance controls and security views available at the time of the control creation and reviews.

However, bad actors do not stop looking for creative ways to find data that may be of reward for them. The opportunity to reduce the amount of PII data and reduce the opportunity for the unintentional release of significant employee/member details through improvements to the solution designs should be a consideration of any planned changes.

As more parties take advantage of cloud solutions and cloud providers continue to deliver changes to infrastructure solutions, the risk to employees'/ members' data can increase. This risk is also important given that any changes to existing solutions will require technology/infrastructure changes which also increase the risk that employee/member details could be subject to exfiltration attempts.

## 2. ATO Operational Security Framework considerations

Changes to SuperStream, SBR and STP specifications need to be reviewed through the lens of the ATO Operational Security Framework to ensure that controls are still relevant and appropriate. Uplift to those controls (where necessary) must be part of the broader considerations around scope, security testing and implementation timeframes.