1 May 2026

Attn: The Contact Officers
Ms Linda Kroslak, Messrs Eric Armstrong, Patrick Boyd, Carl Buttsworth
Superannuation and Employer Obligations
Australian Taxation Office

By email: PaydaySuperPAG@ato.gov.au

Dear Ms Kroslak and Messrs Armstrong, Boyd and Buttsworth,

Draft Law Companion Ruling LCR 2026/D1 Payday Super: qualifying earnings

Draft Law Companion Ruling LCR 2026/D2 Payday Super: eligible contributions

Draft Law Companion Ruling LCR 2026/D3 Payday Super: calculation and assessment of the superannuation guarantee charge

Draft Law Companion Ruling LCR 2026/D4 Payday Super: application and transitional provisions

The Australian Bookkeepers Association, Chartered Accountants Australia and New Zealand, CPA Australia, the Institute of Certified Bookkeepers, the Institute of Public Accountants, the SMSF Association and The Tax Institute (together, **the Joint Bodies**) write to you as the peak professional accounting, bookkeeping, tax, financial advice and superannuation bodies in Australia. We welcome the opportunity to make a submission to the Australian Taxation Office (**ATO**) regarding its consultations on draft Law Companion Rulings LCR 2026/D1, LCR 2026/D2, LCR 2026/D3 and LCR 2026/D4 (**(draft) LCR 2026/DX** as appropriate, the **LCRs**, **(draft) LCRs 2026/D1-D4**, or the **draft LCRs**, as applicable). Our submissions in respect of each draft LCR are made together in this submission.

We acknowledge the significant effort undertaken by the ATO to provide guidance ahead of the commencement of Payday Super. We support the policy objective of improving the timeliness of compulsory employer superannuation contributions and recognise the importance of clear administrative guidance in supporting employers and payroll providers through this transition.

Notwithstanding this, we have material concerns about the practical operability, consistency and clarity of the four draft LCRs when read together. Across the draft LCRs, we have identified a number of areas where key concepts are difficult to interpret, terminology is used inconsistently, or the guidance assumes levels of system capability or employer visibility that do not exist in practice. These issues are compounded by the interaction of the draft LCRs with existing ATO guidance, payroll processes, fund infrastructure constraints and the onerous penalty framework under Payday Super.

We also note strong concerns across the sector that the core message of Payday Super – that superannuation is required to be paid at the same time as earnings, but *not necessarily* by a different method – has not been communicated clearly or consistently across the draft LCRs. There remains a widespread misconception that Payday Super requires employers to change *how* they pay superannuation, rather than *when* it is paid. Clear and repeated messaging in the final rulings that existing payment methods (including clearing houses – notwithstanding the closure of the Small Business Superannuation Clearing House (**SBSCH**) – and direct fund payments) remain unchanged, would materially reduce confusion and unnecessary system change.

It is important to ensure that the closure of the SBSCH is kept in perspective. This will affect around a quarter of a million employers, and the closure will require affected employers to necessarily make new arrangements ahead of the Payday Super start date. Any messaging that adopts a minimalist tone which may reflect the experience of larger employers may be somewhat contrary to the experience of smaller employers.

In our view, the combined effect of these issues creates a real risk that well-intentioned employers may inadvertently fail to comply with their obligations, or take actions that worsen their compliance position, despite acting in good faith. This risk is most acute in relation to contribution timing, allocation mechanics, the operation of the maximum contributions base, exemption certificate the treatment of fund-level outages and the application of penalty uplift provisions. Without further clarification, there is also a risk of inconsistent interpretation and implementation across payroll systems, advisers and employers.

Accordingly, our submission focuses on identifying specific areas where the draft LCRs would benefit from clearer drafting, additional examples, stronger signposting to related ATO publications, and more explicit explanations of administrative intent and limits. Our objective is to support the ATO in finalising guidance that is not only technically accurate, but also practically workable and capable of being applied consistently by employers at scale, thereby promoting compliance with, and confidence in, the Payday Super regime.

Our detailed response to the draft LCRs is contained in **Appendix A**.

If you would like to discuss any of the issues we raise in our submission, please contact Richard Webb, Superannuation Lead at CPA Australia, on 0425 726 889 or at richard.webb@cpaaustralia.com.au.

Yours faithfully,

Peter Thorp
Chairman
Australian Bookkeepers Association

Tony Negline
Superannuation & Financial Services Leader
Chartered Accountants Australia and New Zealand

Richard Webb
Superannuation Lead
CPA Australia

Matthew Addison
Executive Director
The Institute of Certified Bookkeepers

Tony Greco
Senior Tax Advisor
Institute of Public Accountants

Tracey Scotchbrook
Head of Policy and Advocacy
SMSF Association

Julie Abdalla
Head of Tax & Legal
The Tax Institute

Appendix A

Introduction

This appendix sets out the key issues identified by the Joint Bodies in relation to the draft Payday Super LCRs 2026/D1–D4. We have provided additional detail on the practical and interpretive impacts of the draft guidance in relation to a series of matters which we either are not certain of, or believe can be improved.

In this submission, we explain:

- how the relevant aspect of the draft guidance is intended to operate in practice;
- why each issue is significant for employers, payroll providers and advisers;
- where uncertainty, conflict or misalignment arises in the draft LCRs, and
- what amendments, clarifications or additional guidance would mitigate compliance risk and unintended penalty outcomes.

Where the issues identified are not common to the draft LCRs, the issues are grouped by reference to each draft ruling (LCRs 2026/D1–D4).

In raising the issues set out in this Appendix, the Joint Bodies emphasise that the purpose of the draft LCRs should be to support compliance with the Payday Super legislation, not to inadvertently create technical traps for employers acting in good faith. Given the significant compliance and penalty implications of the regime, examples and explanations should be framed to guide employers toward correct outcomes in practical scenarios, rather than exposing them to unintended non-compliance through narrow or overly technical interpretations.

Table of recommendations

Recommendation	Summary of recommendation	Relevant issue(s)
1. Clarify the binding status of the final LCRs	Include prominent, front-of-document signposting in each final LCR explaining whether the ruling is administratively binding only, how it should be relied upon in practice, and the limits of protection, consistent with LCR 2015/1.	1
2. Finalise and publish LCRs well in advance of commencement	Prioritise early finalisation and publication of all four LCRs—particularly LCR 2026/D4—to allow employers, payroll providers and funds sufficient time to implement compliant systems and processes.	2, 32

Recommendation	Summary of recommendation	Relevant issue(s)
3. Improve overall structural usability of the LCRs	Enhance navigability and usability through consolidated tables, glossaries, consistent example placement, diagrams and timelines, particularly for OTE/QE classification and transitional provisions.	3
4. Retain and replace practical OTE guidance currently found in SGR 2009/2	Incorporate a consolidated table (modelled on Appendix 1 to SGR 2009/2) in LCR 2026/D1 showing treatment of common payment types, with paragraph references and QE outcomes.	3, 10, 13
5. Recognise micro-business and irregular payment realities	Provide clear examples confirming Payday Super compliance for irregular or lump-sum remuneration patterns, focusing on timing when earnings are actually paid rather than assumed payroll cycles.	4
6. Expand examples beyond single-employee scenarios	Include multi-employee examples aligned with ATO SG charge correspondence formats to assist reconciliation and reduce misinterpretation in practical payroll settings.	5
7. Clarify salary sacrifice timing and treatment	Confirm that QE is calculated on gross earnings before salary sacrifice to superannuation, distinguish superannuation salary sacrifice from other arrangements, and expand examples to reflect common payroll practice.	6
8. Simplify and clarify fringe benefit treatment	Rewrite paragraph 101 of LCR 2026/D1 in plain language to clearly distinguish salary sacrifice to superannuation from other fringe or non-cash benefits, and acknowledge separate award/EBA obligations.	7
9. Explicitly address interaction with awards and EBAs	Make clear that QE treatment under the LCRs does not override or replace obligations under awards or enterprise agreements, including for superannuation-related payments.	8, 9, 11, 13
10. Improve guidance on allowances, bonuses and similar payments	Apply a consistent “source of income” principle across allowances and bonuses, aligned with pay-cycle logic, supported by expanded worked examples.	10, 21

Recommendation	Summary of recommendation	Relevant issue(s)
11. Clarify treatment of RDO and TOIL cash-outs	Amend examples to explicitly reflect how RDO and TOIL arise under relevant awards or EBAs and demonstrate contrasting outcomes depending on industrial character.	11
12. Make the Maximum Contributions Base mechanism workable	Rewrite paragraph 112 to explain the “specified period” concept clearly, refer explicitly to SGAA s 17C(1)(b), and include examples covering concurrent employment scenarios.	12
13. Improve clarity around OTE-classification grey areas	Provide clearer guidance and worked examples for over-award payments, shift loadings and commissions, and remove internal inconsistencies in LCR 2026/D1.	13
14. Clarify the meaning of “receipt” and contribution timing	Clearly distinguish and define concepts of receipt of money, receipt of data, being able to be allocated, and meeting timing requirements, adopting a single operative concept.	14, 19
15. Acknowledge employer lack of visibility over fund receipt	Recognise that employers lack real-time confirmation of fund receipt and provide guidance on evidentiary standards and safe harbours where payment and data are transmitted on time.	15, 17, 30
16. Provide fair treatment for fund-level errors and rejections	Introduce a safe harbour for employers where contributions are incorrectly rejected by funds, and clarify that erroneous fund actions do not nullify otherwise compliant contributions.	16
17. Clarify receipt timestamps and reconciliation expectations	Specify who determines the official receipt timestamp, and outline how employers should respond to discrepancies before assessments are raised.	17
18. Confirm acceptable evidence of complying fund status	Confirm that Super Fund Lookup results and appropriately dated fund confirmations constitute sufficient evidence of complying status.	18
19. Improve guidance on advance contributions	Align drafting with operational realities of fund systems and retain Example 3 explaining how advance payments are applied.	20

Recommendation	Summary of recommendation	Relevant issue(s)
20. Clarify exceptional-circumstances relief	Explain when relief applies to fund-level outages and infrastructure events, define “widespread outages”, and include practical examples and indicative decision-making approaches.	22
21. Clarify consequences and timing of VDS lodgement	Explain legal and administrative outcomes associated with VDS timing across different income years and interaction with penalty uplift rules.	23, 29
22. Improve clarity of administrative uplift and interest calculations	Rewrite administrative uplift guidance in step-by-step format, clarify paragraph 91, and explain nominal interest calculations clearly.	28
23. Improve transitional guidance for July 2026 overlap	Clearly explain the interaction between June 2026 quarter obligations and July 2026 QE days, supported by examples and an explicit compliance approach.	2, 32
24. Address risks for former employees and refunds	Provide early warnings and guidance on refund and reallocation processes to mitigate double-payment risk.	33
25. Explain objection and review rights	Insert a short section outlining objection and review pathways so employers understand their rights if disputes arise.	34
26. Improve accessibility and print usability	Ensure diagrams and calendars are legible in greyscale and/or accessible for visually impaired users.	26
27. Expand guidance on out-of-cycle payments	Provide clear, practical examples in LCR 2026/D2 illustrating what constitutes an out-of-cycle payment, how timing rules apply, and how superannuation obligations should be determined in those circumstances.	24
28. Incorporate public holidays into timing examples	Alter one or more existing examples, or insert new examples, to demonstrate how contribution timing operates where payment or processing periods include public holidays (including state-specific or regional holidays).	25

Recommendation	Summary of recommendation	Relevant issue(s)
29. Address system misalignment and payment date uncertainty	Include additional practical examples explaining how compliance will be assessed where payroll systems, banking systems, STP reporting and fund processing dates do not align, and clarify which "date of payment" should be relied upon for compliance purposes.	27
30. Strengthen warnings and examples for late quarter payments in 2026	Add prominent warnings and worked examples at the start of the relevant ruling(s) to illustrate the treatment and consequences of late payments made after the March 2026 and June 2026 quarters, including interaction with transitional Payday Super rules.	31

Common considerations

Across all four draft LCRs, we have emphasised the need for:

- greater use of practical, real-world examples;
- clear signposting to related Australian Taxation Office (**ATO**) products (Practical Compliance Guidelines (**PCGs**), legislative instruments and practice statements); and
- recognition of system and data limitations when applying penalties.

Absent these changes, there is a high risk that well-intentioned employers will be exposed to unintended non-compliance and penalties under the Payday Super regime.

Across the draft LCRs, remuneration items such as salary, bonuses and allowances should be addressed through a consistent "source of income" lens, so that payments which are economically similar with respect to how they arose give rise to superannuation obligations at the same time, irrespective of labelling or payroll mechanics.

1. Administrative versus legal binding status of the draft LCRs

There is a distinction between guidance that is administratively binding on the Commissioner and guidance that is legally binding as a matter of law. It has been suggested that the draft Payday Super LCRs may be an example of rulings that are intended to be administratively binding, but not legally binding in the same way as certain other public rulings.

For many employers, advisers and payroll providers, this distinction is not well understood. In practice, users of ATO guidance often assume that all LCRs carry the same legal status and level of protection. Where this assumption is incorrect, there is a risk that readers may place undue reliance on the guidance when making compliance decisions, without appreciating its limits.

Given the complexity of the Payday Super reforms and the heightened penalty regime, clarity about the status of the LCRs once finalised is particularly important.

Employers and advisers may use the final LCRs as a primary source of guidance when designing payroll processes, making implementation decisions, and assessing risk. If a ruling is administratively binding only, its protection is different in character from guidance that is legally binding on the Commissioner or capable of being relied upon in litigation.

Without clear signposting, users may not understand:

- that the LCRs reflect the Commissioner's current administrative view, rather than a definitive statement of the law;
- the circumstances in which that view may change or be displaced by a court decision; and
- the extent to which reliance on the LCRs provide protection from adverse outcomes.

This is particularly relevant where the draft LCRs address areas of genuine uncertainty or where policy intent, system capability and legislative mechanics do not align perfectly.

Law Companion Ruling LCR 2015/1 Law companion rulings: purpose, nature and role in ATO's public advice and guidance (**LCR 2015/1**) explains the purpose, nature and role of LCRs and, in particular, how they fit within the ATO's public rulings framework. Paragraphs 27–34A make clear that while LCRs are public rulings in whole or in part, they primarily express the Commissioner's current view on how recently enacted law is intended to operate, and their practical effect depends on the extent to which taxpayers rely on them in good faith (see, for example, paragraph 27 of LCR 2015/1).

In this context, it is important that users of the draft Payday Super LCRs are given clear and prominent guidance about the level of protection the rulings are intended to provide. Where an LCR is administratively binding only, reflecting the Commissioner's present compliance approach rather than a definitive statement of how the law must be applied in all circumstances, reliance carries a different character of protection from rulings that are legally binding on the Commissioner and capable of being relied upon in litigation. This distinction is not well understood by many employers, advisers and payroll providers, who commonly assume that all LCRs carry the same status and protection.

The need to manage expectations is heightened in the Payday Super context. The draft LCRs address areas of genuine uncertainty, including complex interactions between policy intent, system capability and legislative mechanics, and they do so against a backdrop of shortened payment timeframes and increased penalty exposure. Without clear signposting, particularly at the beginning of each final LCR, users may place undue reliance on the guidance when designing payroll systems and compliance processes, without appreciating that the Commissioner's view may evolve or be displaced by judicial authority.

Accordingly, and consistent with the principles articulated in LCR 2015/1, expectations regarding the binding nature and limits of reliance on the Payday Super LCRs should be explicitly managed. Clear upfront disclosure would support informed decision-making, reduce the risk of misunderstanding, and align users' reliance on the guidance with the level of protection it is intended to offer.

The Payday Super regime significantly increases employers' exposure to compliance failures, including strict timing rules and penalty uplift mechanisms. In that environment, the status of the guidance becomes critical.

If employers believe that the final LCRs are legally binding in all respects, they may rely on them with a level of confidence that is not warranted. Conversely, if the administrative nature of the rulings is not clearly explained, employers may only become aware of the limitation after a dispute has arisen.

Clear upfront disclosure of the binding status of the rulings would improve transparency, manage expectations, and support informed compliance decisions.

Recommended action

To improve clarity and transparency, we recommend that the final LCRs include prominent, bolded text at the beginning of each ruling, clearly stating:

- whether the ruling is administratively binding on the Commissioner;
- that it does not have the same legal status as binding public rulings that determine the operation of the law; and
- how taxpayers and employers should understand and rely on the guidance in practice.

Placing an explanation at the front of each ruling would materially reduce the risk of misunderstanding and ensure that users of the Payday Super LCRs engage with the guidance on an appropriately informed basis.

2. Timing of publication of final LCRs

The timing of publication of the LCRs is crucial to the effective implementation of the Payday Super reforms. These rulings are intended to provide authoritative administrative guidance to employers, employees, superannuation funds, payroll providers and advisers on how the new regime will operate in practice.

Given the complexity of the reforms and the breadth of the draft LCRs, all affected stakeholders need to be able to rely on the finalised LCRs as early as possible. Prompt publication of the final rulings will assist employers and payroll providers to finalise systems, processes and controls, and will support consistent administration by the ATO.

This concern applies to all four draft LCRs, but is particularly critical in relation to draft LCR 2026/D4, which contains crucial information about the transition into Payday Super. The importance of the subject matter in that ruling, where draft LCR 2026/D4 addresses transitional matters at the end of the 2025–26 financial year and the commencement of the new Payday Super regime, including the important payment transition period around 1 July 2026, cannot be overestimated. Decisions that employers must make before the end of the current financial year—such as how to prioritise payments, manage overlapping obligations, and mitigate unintended shortfalls—are directly informed by the guidance contained in this ruling.

If final guidance on these transitional issues is not available within a reasonable timeframe, employers may be forced to act based on draft guidance, assumptions, or incomplete information. This increases the risk of inconsistent approaches, conservative overcorrection (including double payments), or inadvertent non-compliance once the regime commences.

From the perspective of payroll providers and superannuation funds, delayed finalisation also constrains system development, member communications, and operational readiness. Similarly, the ATO's ability to administer the regime consistently is best supported by having settled, final guidance in place before the regime begins.

The closer the finalisation of the LCRs occurs to the end of the 2025–26 financial year, the more difficult it becomes for affected parties to take informed and timely action.

Recommended action

To support effective implementation of Payday Super and reduce transitional risk, we recommend that the ATO:

- prioritise the timely publication of the final LCRs, particularly draft LCR 2026/D4, well in advance of the end of the 2025–26 financial year;
- provide certainty to employers, payroll providers and superannuation funds by ensuring that final guidance on transitional arrangements is available while there is still sufficient time to act on it; and
- consider clearly communicating expected publication timeframes so that affected stakeholders can plan accordingly.

Early finalisation and publication of the LCRs will materially assist all parties in preparing for Payday Super and will support a smoother and more consistent transition into the new regime.

3. Structural usability of the LCRs

Employers, advisers and payroll providers have consistently relied on prior superannuation rulings, most notably *Superannuation Guarantee Ruling SGR 2009/2 Superannuation guarantee: meaning of the terms 'ordinary time earnings' and 'salary or wages'* (**SGR 2009/2**), as practical, operational tools. The key to these tools' effectiveness has been the inclusion of summary tables, appendices, worked examples, and consolidated definitions.

Across the draft LCRs, we have concerns that the current structure and presentation of the draft guidance make them difficult to navigate and apply in practice, particularly for small and medium employers without in-house technical expertise or sufficient resources to readily access external professional advice.

Ordinary time earnings (**OTE**) is a foundational concept for the operation of the Payday Super regime, as it forms the starting point for determining qualifying earnings (**QE**). While the draft LCRs appropriately set out the legislative definition of OTE by reference to subsection 6(1) of the *Superannuation Guarantee (Administration) Act 1992* (**SGAA**), this definition alone does not provide sufficient practical guidance for employers.

For the past 17 years, SGR 2009/2 has been the ATO's primary and authoritative source of practical guidance on OTE. In particular, Appendix 1 to SGR 2009/2, which sets out a structured table of common payment types with explanatory notes and paragraph references, has been widely relied upon by employers, payroll providers and advisers to assess whether particular payroll categories are OTE.

The draft LCRs do not meaningfully reference SGR 2009/2 or explain how that ruling interacts with the new QE framework. We understand that this ruling is proposed to be withdrawn. As a result, users will be left with a high-level statutory definition of OTE but without the practical tools contained in SGR 2009/2 that have historically enabled consistent and compliant application.

We have discussed elsewhere in this submission the need for better analysis of allowances in LCR 2026/D1.

We note that LCR 2026/D1 contains all its examples at the end of the document whereas in LCRs 2026/D2 – D4, relevant examples are included at the end of each relevant section. We encourage consistency in approach and would prefer LCR 2026/D1 be restructured accordingly.

Recommended action

We recommend that:

- a consolidated appendix table is included in LCR 2026/D1 (modelled on Appendix 1 to SGR 2009/2) showing common payment types and whether they are OTE, or excluded, with paragraph references. A new column detailing if an item is QE should also be added to the table;
- a glossary of defined terms in each LCR; and
- diagrams and timelines are used (particularly in LCR 2026/D4) to illustrate transitional scenarios.

Clear linkage between the draft LCRs and SGR 2009/2 would materially assist employers in applying the QE rules correctly and reduce compliance and penalty risk.

4. Application of Payday Super to micro-businesses and irregular payment patterns

Many micro-businesses and small professional practices do not pay employees (including business owners) on regular weekly, fortnightly or monthly cycles. Instead, payments may be made irregularly, or as lump sums based on cashflow availability.

The draft LCRs generally assume regular pay cycles and consistent earnings, which does not reflect this common operating reality.

In particular, many micro-businesses, small professional practices, and closely held entities operate with variable or irregular remuneration patterns that are driven by cashflow rather than fixed payroll cycles. This can include business owners and key staff being paid in irregular lump sums, or at variable intervals, rather than on a consistent weekly or monthly basis. In these scenarios, the practical compliance question is not the frequency of payment, but whether superannuation contributions are made at the same time as the earnings are actually paid. We consider that clear examples, confirming compliance outcomes for irregular or lump-sum payments provided contributions are made in accordance with the Payday Super timing rules when earnings are paid, would materially reduce confusion for micro-businesses and small employers, and reduce the risk of unnecessary or impractical changes to longstanding payment practices.

These examples should focus on the timing of payments when earnings are actually paid and should not be read as endorsing any payment practices that may be considered inconsistent with employers' obligations under Fair Work legislation.

In these arrangements, payroll and single touch payroll (**STP**) reporting may also appear inconsistent when viewed against assumptions of regular pay cycles. Clarifying that irregular or lump-sum earnings events may still be compliant where superannuation contributions are aligned to the actual payment of earnings would assist employers and advisers in reconciling payroll records, STP data and Payday Super obligations without assuming system or reporting errors. Without clear examples covering irregular or lump-sum payments, micro-businesses and small employers may incorrectly assume that Payday Super requires them to fundamentally alter longstanding pay practices, rather than simply aligning superannuation payments to when earnings are actually paid.

Recommended action

- Include additional examples for micro-businesses, such as sole trade businesses illustrating compliance when earnings are paid, including irregularly or as lump sums.
- Clarify that superannuation obligations arise at the time earnings are paid, regardless of payment frequency, provided contributions are made in accordance with Payday Super timing requirements.

5. Use of single-employee examples

Across the draft LCRs, almost all examples assume a single employee scenario. In practice, employers manage superannuation obligations across multiple employees, with differing pay dates, earnings profiles and contribution histories.

ATO correspondence, including superannuation guarantee (**SG**) charge notices, is issued on an employer-wide basis and commonly includes employee-by-employee calculations. Examples that only deal with single employees do not necessarily assist employers or advisers in reconciling ATO communications with their payroll records.

We also consider that one or more examples in LCR 2026/D3 should be structured in a manner that closely aligns with the format and tables used in ATO SG charge correspondence. This would assist employers in reconciling ATO notices against their payroll systems by showing, on an employee-by-employee basis, how qualifying earnings days (**QE days**), shortfalls, payments made, and residual liabilities interact in practice. Presenting examples in this way would materially improve usability, reduce misunderstanding of ATO assessments, and support faster and more accurate remediation of shortfalls where they arise.

Recommended action

- Include worked examples involving multiple employees with different QE days.
- Align the format and tables examples in LCR 2026/D3 and those used in ATO SG charge correspondence to improve consistency and usability. By employee, the SG charge notices should include detailed tables showing the expected SG amount, the on-time contributions, individual base SG shortfalls, late payments and individual final SG shortfalls. These tables should also be reflected in the corresponding ATO compliance letters to ensure clarity and completeness, and to assist employers in promptly identifying and rectifying unpaid superannuation.

6. Salary sacrifice – timing and tracking

Under the Payday Super regime, employers must identify a QE day that triggers the obligation to make superannuation contributions shortly after employees are paid. Where salary sacrifice contributions are made into superannuation, uncertainty may arise as to when those sacrificed amounts become QE.

In practice, salary sacrifice contributions may be paid to superannuation funds on a different payment cadence to SG contributions. When this occurs, amounts would be notionally set aside or calculated when payrolls are processed, but the sacrificed amounts may not be paid to a superannuation fund until later. The draft LCRs may benefit from examples showing where employers are tracking salary sacrificed amounts on an accrual basis rather than by reference to when amounts are actually paid.

For clarity, references in the draft LCRs to "salary sacrifice" should be understood as referring only to salary sacrifice arrangements for superannuation purposes as much as possible. In practice, many employees also enter into salary sacrifice arrangements for other non-cash benefits (such as novated leases), which reduce QE. Explicitly distinguishing salary sacrificed superannuation contributions from other salary sacrifice arrangements would reduce the risk of misinterpretation and inconsistent payroll treatment.

Recommended action

Expand example 27 to include discussion of timeframes for when salary sacrifice contributions are actually paid to funds.

7. Fringe benefits and qualifying earnings

The draft LCR attempts to explain how fringe benefits interact with QE. However, paragraph 101 is drafted in a way that makes it difficult for non-specialist readers to understand the intended outcome.

Generally, the intended policy position is understood to be that only salary sacrifice amounts directed to superannuation are treated as QE, while all other amounts understood as fringe benefits (including fringe benefits tax (**FBT**)-exempt benefits) are excluded. This outcome, however, is not stated clearly in paragraph 101 and requires inferential reading.

Ambiguity in this area increases the risk that employers will incorrectly include or exclude amounts in their Payday Super calculations.

This area can also be complicated by awards or enterprise bargaining agreements (**EBAs**) that require an employer to pay superannuation on some fringe benefits.

Recommended action

- Rewrite paragraph 101 in plain language to state explicitly that salary sacrifice to superannuation counts as QE and that all other amounts given by employers to employees that are neither fringe benefits nor salary or wages within the meaning of the *Fringe Benefits Tax Administration Act 1986* (**FBTAA**) are also excluded from QE for SGAA purposes.

- Acknowledge that an employer may have superannuation obligations for fringe benefits under other relevant legislation.

8. Interaction with awards and enterprise agreements

Many awards and agreements (including EBAs) define earnings for superannuation purposes in ways that do not align neatly with the QE concept used for Payday Super.

There is a risk that employers may assume that compliance with the LCR automatically satisfies their award or EBA obligations, or vice versa. In reality, these are separate legal regimes. Without clear warnings, employers may inadvertently breach industrial obligations or misapply the Payday Super rules.

Recommended action

Insert an express statement that QE treatment in the LCR does not override or replace obligations arising under awards or EBAs.

9. Employer-paid administration fees and insurance under awards or EBAs

Some awards and EBAs require employers to pay superannuation-related administration fees or insurance premiums on behalf of employees, with often minimal specification as to whether this is in addition to, or part of, ordinary SG obligations. The draft LCR does not clearly explain how these payments should be treated for Payday Super purposes.

In particular, it is unclear whether such payments are:

- qualifying earnings; or
- ordinary SG contributions only.

This uncertainty makes compliance very difficult for employers that are subject to award- or agreement-based superannuation obligations.

Recommended action

Provide explicit clarification on the treatment of employer-paid fees and insurance premiums mandated by awards or EBAs with reference to how these arrangements can be specified in industrial instruments.

10. Allowances (including car and relocation allowances)

Allowances remain one of the most complex and error-prone aspects of superannuation compliance. The draft LCR does not provide adequate guidance on the treatment of common allowances, particularly where the allowance may be partly compensatory and partly earnings-related.

Consistency of treatment across different remuneration components is particularly important for payroll implementation. Similar to bonuses, employers need clear confirmation that allowances which constitute QE attract superannuation obligations at the time the allowance is paid, regardless of whether the allowance is paid as part of a regular payroll run, in an off-cycle payment, or as a standalone lump sum. Explicitly aligning the allowance guidance with the "source of income" principle outlined elsewhere in the rulings would materially improve clarity and reduce the risk of inconsistent system treatment.

More broadly, we consider that allowances and bonuses (discussed elsewhere in this submission at Issue 10 and Issue 21) raise the same underlying compliance issue from a payroll and systems perspective. In both cases, employers need confidence that superannuation obligations arise by reference to the source and timing of the earnings, rather than the label applied to the payment. Where an allowance or bonus constitutes QE, superannuation should be payable at the time that remuneration is paid to the employee—whether as part of a regular pay cycle, an off-cycle payment, or a standalone lump sum.

Explicitly articulating this principle across both allowances and bonuses would reduce the risk that payroll systems are required to apply different timing logic to remuneration items that are economically and operationally equivalent. Consistent application of a "source of income" principle across these payment types would materially improve clarity, support system design, and reduce inadvertent non-compliance.

We have specific concerns about the phrase "expended in the course of employment" (see paragraphs 157, 159 and 160), which is not well aligned with existing PAYG or payroll concepts and is therefore difficult to apply in practice.

Recommended action

Include explicit allowance categories and worked examples, with clear alignment to the principles in SGR 2009/2 where continuity is intended.

It would also be helpful to include the following examples:

- an allowance that is paid by an employer but is unrelated to services performed;
- that address allowances paid before an individual has even begun providing services for the employer, such as a relocation allowance (where substantiation of costs is and is not required);
- fare allowances which may be for travel to work for more than a prescribed distance and there may be no reasonable expectation that the amount will be fully expended;
- in addition to example 9 in LCR 2026/D1, tool allowances, laundry allowances and part-day travel allowances, where there may be disparity between an award prescribed allowance and the amount employees spend; and
- additional examples dealing with the treatment of car allowances.

11. Cash-out of RDO or TOIL during employment (especially examples 18 and 19)

Where employees cash out rostered days off (**RDOs**) or time off in lieu (**TOIL**) while still employed, the correct superannuation treatment depends critically on how those entitlements arise and are characterised under the relevant award or EBA.

In practice, awards and EBAs play a central role in determining whether RDOs or TOIL compensate employees for work performed within ordinary hours or outside ordinary hours, and whether those entitlements form part of OTE. In many industrial instruments, TOIL and RDO entitlements accrue specifically because employees work hours in excess of their ordinary hours, with the leave operating as a mechanism for deferring or offsetting overtime rather than altering the quantum of ordinary hours worked.

Conversely, some awards or EBAs structure RDOs as part of ordinary hours arrangements (for example, by averaging ordinary hours over a cycle). In those cases, where an RDO represents paid leave taken in respect of ordinary hours, the treatment may appropriately differ. The key point is that the superannuation outcome cannot be determined in isolation from the governing award or EBA.

Our concern is that the draft LCRs may be read as adopting a uniform treatment of RDO and TOIL cash-outs in all situations as QE, without sufficient regard to how those entitlements are created and characterised under industrial instruments. Such an approach risks overriding the industrial reality and would create compliance complexity for employers, particularly where payroll systems have historically classified these payments based on award or EBA settings and established OTE treatment. Clear confirmation that the treatment of RDO and TOIL cash-outs turns on the terms of the relevant award or EBA is therefore essential to ensure continuity and reduce inadvertent errors.

Examples 18 and 19 consider the relationship of cash-outs of RDOs or TOIL to QE without clearly addressing how these remuneration items arise in industrial instruments. Without that context, the examples risk being interpreted as applying regardless of industrial character, which would represent a departure from longstanding SG practice and create additional compliance risk.

Recommended action

- Clarify that the treatment of cash-outs of RDOs or TOIL during employment depends on how the entitlement is structured under the relevant award or EBA, including whether it compensates employees for work performed outside ordinary hours or forms part of OTE.
- Amend examples 18 and 19 to explicitly state the relevant award or EBA requirements used as assumptions, and to demonstrate contrasting outcomes where:
    - RDOs or TOIL accrue from overtime or work outside ordinary hours (and where cash-outs are therefore not QE); and
    - RDOs or TOIL could form part of an ordinary hours arrangement under the applicable industrial instrument.

12. Maximum Contributions Base and exemption certificates (paragraphs 111-119, especially paragraph 112, examples 28-30)

The draft LCR applies the maximum contributions base (**MCB**) on an annual, rather than a quarterly, basis. While this reflects legislative change, the administrative mechanism described in the draft LCR could be potentially viewed as unworkable.

In particular, paragraph 112 assumes a level of employer visibility and coordination that does not exist where employees have multiple concurrent employers. The examples provided only deal with sequential employment and do not reflect common real-world scenarios.

Paragraph 112 of draft LCR 2026/D1 also refers to the "specified period" concept as part of the mechanism intended to manage the annual MCB where an employee commences employment partway through a financial year. However, the paragraph is difficult to interpret and does not clearly explain how the specified period is determined or what it is intended to represent. The specified period concept should ideally refer back to the definition contained at paragraph 17C(1)(b) of the SGAA.

For readers who are not already deeply familiar with the legislation, paragraph 112 does not make clear whether the specified period is:

- a fixed period defined in the law, or
- an amount calculated by reference to the remaining part of the financial year, adjusted by the minimum 30-day buffer applying after when the application is made after the point at which the employment relationship exists, or
- some other period determined by the Commissioner on an administrative basis.

This lack of clarity makes it difficult for employers and payroll providers to understand how, and over what timeframe, the annual MCB is intended to apply when employment starts during a financial year.

Practical operation concerns

From a practical perspective, employers and payroll systems need to be able to determine, at or near the commencement of employment, how the annual MCB should be applied to an employee's earnings. As discussed earlier, paragraph 112 appears to assume a level of precision and foresight that is not readily achievable in payroll systems, particularly where:

- the employee may have had prior employment earlier in the same financial year; or
- the employer has no visibility over an employee's existing contributions with other employers; or
- the "specified period" cannot be readily translated into a clear start date.

Without a clear and plainly stated definition of the specified period, payroll providers cannot confidently design rules to apply the MCB, and employers are left uncertain as to whether they are applying the base correctly.

The annual MCB operates as a hard limit on compulsory contributions. Misapplying it—even inadvertently—can result in over-contributions, under-contributions, or inconsistent treatment across employers. Under the Payday Super regime, such errors carry heightened consequences due to shortened payment timelines and exposure to SG charge and penalties for underpayment (regardless of the employer's culpability for the underpayment). Errors can also affect employees' exposure to additional taxes including excess contributions and Division 293 and Division 296 taxes.

If paragraph 112 is interpreted differently by different employers, this will undermine consistency and increase compliance risk, particularly in respect of employees with multiple employers in the same financial year.

Recommended action

- Explicitly acknowledge that the current mechanism does not necessarily address parallel employment scenarios.

- Provide additional examples covering concurrent employers, or outline an alternative ATO-driven solution using STP data.

Additionally, to reduce uncertainty and compliance risk, we recommend that the final LCR:

- refer the specified period back to paragraph 17C(1)(b) of the SGAA;
- clearly explain, in plain language, how the specified period is determined, including whether it is calculated by reference to the remaining portion of the financial year and how the 30-day reference point operates;
- include a simple worked example showing how the specified period applies where employment commences partway through a financial year; and
- clarify how employers are expected to apply this concept where they do not have visibility over an employee's prior or concurrent employment.

We consider that without modification, paragraph 112 is likely to be interpreted inconsistently which may create avoidable compliance and penalty risks for otherwise well-intentioned employers. We suggest that the paragraph be re-written as follows:

> *112. Employees with multiple employers during a financial year may inadvertently exceed their annual concessional contributions cap if each employer pays minimum SG contributions. To help avoid this outcome, an employee may apply (in the approved form) to the Commissioner for an employer shortfall exemption certificate for a specified employer (being an employer of the employee at the time the application is made) and for a specified period ending at the end of a specified financial year (see paragraph 17C(1)(b) of the SGAA). An application may be made at any time after the employment relationship with that employer exists. However, the start date of the specified period must be at least 30 days after the day the application is made. The specified period is the period nominated in the application and may be shorter than the employee's overall period of employment with that employer.*

13. Over award payments, shift loading or commissions

There is ongoing uncertainty in practice when classifying over-award payments, shift loadings and commissions as OTE. While some of these payments may, in substance, compensate employees for work performed within ordinary hours, others are paid specifically in respect of work performed outside ordinary hours, in recognition of particular working patterns, or as incentives not directly referable to time worked.

The distinction often turns on the terms of the relevant award, enterprise agreement or employment contract, as well as the character and purpose of the payment. However, these instruments are not always explicit, and payments may be described or administered inconsistently across payroll systems. As a result, employers may face difficulty determining whether particular payments fall within OTE, notwithstanding longstanding ATO guidance. This may result in inconsistent treatment and increased compliance risk, particularly as OTE now operates as the starting point for determining QE under Payday Super.

We consider that paragraphs 39 and 40 are confusing. Paragraph 39 implies that the SG may not be payable for all payments of commission. This is immediately contradicted by paragraph 40.

Recommended action

- Remove the word "commission" from paragraph 39.

- Remove the unnecessary repetition contained in paragraph 73.
- Improve LCR 2026/D1 by including examples of over award payments, shift loading and commissions.

LCR 2026/D2 Payday Super: eligible contributions

14. Meaning of "receipt" – money and data (paragraphs 10-22)

Historically, superannuation guidance (including *Taxation Ruling TR 2010/1 Income tax: superannuation contributions* (**TR 2010/1**)) has focused on whether money has been received and credited to a fund ("increase to the capital of the fund" is typically used to describe this – see paragraph 21 of draft LCR 2026/D2). The draft LCR introduces a new concept requiring both money and data to be received, before a contribution is treated as received as required by the recent amendments to the SGAA.

While this reflects Payday Super legislative requirements and modern SuperStream processes, the draft LCR does not explain clearly how this new concept interacts with existing tax rulings or how employers are meant to apply it in practice.

While for the most part it is understandable that these would operate in parallel, it creates complications such as when contributions are rejected in error. We have discussed this in detail in this submission at Issue 16.

Recommended action

- Clearly explain that two concepts of receipt now exist, and specify which applies for Payday Super, SG compliance, and deductibility.

15. Lack of employer visibility and assurance of receipt by superannuation funds

The draft guidance in LCR 2026/D2 places significant weight on concepts such as whether a contribution has been "received", whether both money and data have been received, and whether a contribution is "able to be allocated". However, employers generally have no direct visibility or assurance as to when a superannuation fund has actually received a contribution, received the associated data, or treated the contribution as capable of being allocated.

In practice, employers discharge their obligations by initiating payment through a clearing house or directly to a superannuation fund and transmitting the required data in accordance with SuperStream. Once this occurs, employers ordinarily have no reliable, real-time confirmation of fund receipt, particularly where delays arise within clearing houses, payment networks or fund processing systems.

This lack of visibility creates a significant gap in an employer's ability to ensure compliance. Employers may do everything reasonably expected of them and within their control: make payment on time, transmit correct data, and retain evidence of remittance. However, employers are still exposed to the SG charge if receipt of money and correct data are delayed or fail within one or more other organisations' IT systems.

Under the Payday Super framework, where timing obligations are significantly compressed, this risk and exposure to penalties is amplified. Employers are unable to correct issues they cannot see and may only become aware of a purported shortfall after the relevant timing window has closed, at which point penalties may already have arisen.

From an operational perspective, employers and payroll providers need certainty about what constitutes sufficient evidence of compliance where receipt by the fund is outside the employer's control.

Payday Super materially increases the consequences for employers of timing failures. If employers cannot obtain assurance of receipt by a superannuation fund, compliance becomes contingent on third-party systems over which employers have no control. This outcome is inconsistent with principles of fair administration and creates a heightened risk that well-intentioned employers will be penalised despite acting diligently and in good faith.

In the absence of clear evidentiary standards and guidance, employers may respond conservatively and make contributions earlier than required or duplicate payments to mitigate penalty exposure. Such behaviour does not improve compliance outcomes and may instead create downstream reconciliation issues, cash-flow strain for employers, and confusion for employees. Clear confirmation that reasonable payment and data transmission actions taken within the required timeframe will be recognised for compliance purposes would reduce the likelihood of unnecessary early or duplicate payments.

Recommended action:

To address this gap and reduce unintended penalty exposure, we recommend that LCR 2026/D2:

- explicitly acknowledge that:
    - employers may only discover failures at the next payroll run;
    - employers do not have direct visibility or control over fund receipt of money and lodgement of correct data; and
    - many employers do not access payroll systems daily;
- clarify that an employer will be taken to have met its timing obligations where it has made payment and transmitted required data within the relevant timeframe, supported by reasonable evidence (for example, clearing house confirmations or payment records, together with no evidence of errors or otherwise rejected contributions); and
- provide guidance on the evidentiary standards the ATO will accept where receipt by the fund cannot be confirmed within the Payday Super timing window.

Clear articulation of these principles would materially improve certainty, support practical compliance, and align the ATO's guidance with the operational realities faced by employers.

16. Contributions rejected due to fund error

Contributions that are paid on time by an employer but rejected by a fund due to errors made by the superannuation fund – even if sufficient data was received to allocate the contribution – are ultimately considered by the draft LCR to not be a contribution for the purposes of the SGAA in paragraph 21. In the Joint Bodies' view, employers who have taken reasonable steps should not be penalised for matters beyond their control.

Paragraph 10 makes it clear that a contribution which is made to a complying superannuation fund or retirement savings account (**RSA**), and is able to be allocated, is considered to have been made by the employer.

Further, paragraph 17 makes it clear that where "there is nothing in the fund rules, or any legislative provision, that would prevent the fund from accepting and allocating the contribution", any false negatives or other errors acted upon by the fund in erroneously rejecting the contribution are not contemplated by this wording and therefore would not nullify the contribution, regardless of the net position of the fund's capital after such a rejection.

However, the draft LCR subsequently adopts the position that no contribution is made unless fund capital is increased, exposing employers to the SG charge even where genuine compliance efforts have occurred as described in paragraphs 20 and 21. The Joint Bodies note that, given that fund capital would have, in fact, increased prior to the point of rejection, we consider that the reasoning in paragraph 21 may not be strong enough without further explanation (at the very least until money leaves a superannuation fund, we would expect interest to be earned on that deposit; in addition, the contribution will have been entered into a fund's financial accounts).

We are concerned that the draft LCR appears to allow for both outcomes where erroneous rejection of a contribution could be interpreted as a contribution both having been made by an employer and also not made, simultaneously.

Recommended action

- Introduce a safe harbour or administrative concession for employers who can demonstrate reasonable efforts and timely payment.
- Modify paragraphs 10 and 17 with additional dot points making it clear that "able to be allocated" does not include scenarios where funds incorrectly reject a contribution.
- Modify paragraph 21 to address the issue that the capital of the fund was increased before subsequently being decreased.

17. Who determines the receipt timestamp?

As discussed in Issue 15, employers currently have limited visibility of when a superannuation fund records receipt of money and data. Where delays or mismatches occur, giving rise to a purported shortfall, employers may be unable to prove compliance.

It would also be helpful for the LCRs to acknowledge scenarios where ATO data or correspondence indicates a superannuation shortfall that does not align with the employer's payroll and payment records. Employers require guidance on expected reconciliation steps prior to assessment, including how to respond where their records show that payment and associated data were transmitted on time. Without such guidance, employers may be uncertain whether to lodge voluntary disclosures, await further ATO contact, or risk exacerbating their penalty exposure.

In particular, employers would benefit from clear guidance on whether, and in what circumstances, they are expected to proactively investigate or reconcile discrepancies between ATO data and their own records before an assessment is issued. In the absence of such clarification, there is a risk that employers either over-disclose out of caution or delay engagement in good faith, not knowing which approach the ATO considers appropriate under the Payday Super compliance framework.

There is also a risk that employers may take corrective action based on ATO data that is later found to be incomplete or incorrect, resulting in overpayments or duplicated contributions. Guidance on how the ATO will treat employers who act promptly and in good faith on the basis of information available to them at the time would materially improve confidence and reduce potentially unnecessary remediation activity.

Recommended action

Specify who determines the official receipt timestamp and what evidence employers may rely on in the event of a dispute.

18. Evidence of complying fund status (paragraphs 13-14)

Paragraph 13 requires written confirmation of a fund's complying status for conclusive evidence that a contribution has been made to a complying superannuation fund. This is inconsistent with long-standing reliance on the Super Fund Lookup tool.

Recommended action

Confirm in paragraph 13 that a positive result from the Super Fund Lookup tool is sufficient written confirmation of complying status. Also confirm that an employer can rely on a compliance statement copied or downloaded from a superannuation fund's website that has an appropriate and verifiable date stamp.

19. Inconsistent operative terminology for contribution timing (paragraphs 20, 24 and 27)

Draft LCR 2026/D2 uses multiple phrases to describe when a superannuation contribution satisfies timing requirements under the Payday Super regime. While these phrases appear intended to describe closely related concepts, they are not defined consistently or clearly distinguished from one another.

For example, the draft LCR refers variously to contributions that are:

- "received" by a superannuation fund (for example, paragraph 20);
- "able to be allocated" to a member (for example, paragraph 20);
- "applied as an on-time contribution" (for example, paragraph 24); and
- treated as meeting the timing requirements for the relevant QE day.

These terms are used at different points in the draft LCR, sometimes interchangeably and sometimes in close proximity, without clear explanation of whether they are intended to describe the same event or different stages in the contribution process (for example, receipt of money, receipt of data, allocation to a member account, or final crediting).

For employers and payroll providers, this creates uncertainty as to which event determines compliance with the timing rules. In practice, these events may occur on different days, particularly where contributions pass through clearing houses, or where money and data are transmitted separately.

Payroll systems and employers need a single, clearly defined point in time at which a contribution is treated as meeting its timing obligation. Where the draft LCR uses different terminology without clear hierarchy or definition, system designers and compliance teams are left to infer how these concepts fit together.

This increases the risk that employers may believe they have complied based on one concept (for example, when a contribution is "able to be allocated"), only to later learn that the ATO considers a different concept (such as when the contribution is "applied as an on-time contribution") to be determinative.

We also recommend that terminology relating to salary sacrifice be used consistently throughout the LCRs consistent with the clarification set out in Issue 6 above, with explicit confirmation that only salary sacrificed contributions to superannuation is excluded from QE, and that salary sacrificed amounts for other non-cash benefits do not reduce the QE base. Under the Payday Super framework, timing failures can give rise to SG charge and penalties, even where contributions are made only marginally late or are delayed due to factors outside the employer's control.

If the operative concept is not stated clearly and consistently, well-intentioned employers may inadvertently fail to comply, and payroll providers may implement divergent interpretations. This undermines certainty, consistency and confidence in the administration of the regime.

Recommended action

To reduce confusion and compliance risk, we recommend that the final LCR:

- adopts a single operative concept for determining whether a contribution meets the timing requirements;
- clearly defines that concept in plain language; and
- explains how other related concepts (such as receipt of money, receipt of data, and allocation) support or lead to that operative outcome.

Consistent terminology would materially improve the clarity and practical operability of the guidance.

20. Advance payments

The Payday Super legislation permits advance payments of superannuation of up to 12 months. However, many superannuation funds have indicated they cannot operationally administer such payments, rendering the guidance in the draft LCR unrealistic.

Proper ATO reporting as suggested in Issue 15 above would assist employers to reconcile advanced SG payments with QE payments.

We also note the importance of retaining example 3 in LCR 2026/D2 in its current form. There have been significant misunderstandings, particularly among payroll software providers, regarding the treatment and allocation of contributions made above the statutory minimum. Example 3 plays a crucial role in demonstrating how such contributions may be applied to offset future shortfalls under the superannuation legislation. We consider it important that this example is not removed or materially altered in the final ruling.

Recommended action

- Align the drafting of LCR 2026/D2 with the operational realities of fund systems.
- Retain example 3 in its current form.

21. Bonuses (example 2)

Many employees may have a bonus built into their remuneration package. Bonuses are often discretionary and only paid once performance targets are met. However, when paid, they are often included in a normal pay cycle. The message from the ATO should be:

1. If bonuses are paid with a pay cycle – the SG needs to be paid at the same time.
2. If bonuses are paid in an off-cycle – the SG needs to be paid using the "out-of-cycle" rule.

The overall message should be that the SG needs to be paid with the source of income (regardless of the breakdown being salary and wages, bonuses, allowances etc).To reinforce this principle, it would be beneficial for the final LCR to make clear that the superannuation treatment of bonuses does not depend on the label applied to the payment, but rather on when and how the earnings arise. Clear and consistent messaging would reduce confusion and support consistent payroll implementation.

This approach is intended to operate consistently with the treatment of allowances discussed in Issue 10. In both cases, clear guidance that superannuation is payable when QE are paid, regardless of whether the payment is processed within or outside a normal payroll run, will assist employers and payroll providers to implement uniform and reliable timing rules.

We also note that not all sign-on or commencement payments are, in substance, remuneration for services performed. In practice, some sign-on payments are made to compensate employees for amounts forfeited with a prior employer, such as repaid training costs, forfeited bonuses or relocation expenses already incurred. Clarifying that the treatment of such payments depends on their character, rather than their label, and that compensatory payments which do not relate to services performed for the new employer may fall outside QE, would further improve alignment with long-standing superannuation principles and reduce classification risk.

Recommended action

Amend example 2 to make it clearer when superannuation guarantee payments are due on the payment of bonuses.

22. Exceptional circumstances relief – system and fund infrastructure outages (paragraphs 56–61, examples 6 and 7)

The Payday Super framework increases employers' exposure to penalties arising from short disruptions in contribution processing. As a result, employers require clear and practical guidance on when exceptional circumstances relief will be available for system failures, outages or other events that occur outside their control.

Draft LCR 2026/D2 recognises the possibility of relief in limited circumstances. However, the guidance is framed at a high level and uses broad terms—such as "widespread outages" (for example, paragraph 61)—without explaining how those terms are to be applied in practice or what types of events were intended to be covered.

In addition to general system outages (such as internet or payment network failures), concerns have been raised about outages arising from superannuation fund infrastructure events, which are relatively common and typically outside an employer's influence. These can include:

- successor fund transfers, where contributions are temporarily unable to be accepted or allocated while members are transitioned between funds;
- fund mergers and product rationalisations, which may involve planned shutdowns or restricted contribution windows;
- changes to fund administrators, during which clearing houses or funds may impose temporary processing suspensions; or
- planned or unplanned blackout periods, during which funds or administrators intentionally pause acceptance or allocation of contributions to protect data integrity.

From an employer's perspective, these events can prevent contributions from being received, allocated or confirmed, even where the employer has acted in good faith and within expected timeframes.

Fund infrastructure outages are often announced with limited lead time and may affect only a subset of funds, products or administrators. As a result, it is unclear whether such events would be regarded as "widespread outages" for the purposes of paragraphs 56–61, or whether employers affected by them would be expected to absorb the resulting compliance risk.

Employers and payroll providers have no ability to accelerate or override these fund-level processes. In a Payday Super environment with shortened payment windows, even a brief blackout or transition period may cause contributions to miss timing requirements and ultimately penalise employers, unless relief is clearly available.

Without explicit recognition of fund-related outages as potential exceptional circumstances, employers may be exposed to SG charge and penalties for matters entirely outside their control. This is particularly concerning given that many such events are undertaken at the initiative of funds or administrators, rather than employers.

Uncertainty as to the availability of relief also makes it difficult for employers and advisers to assess risk, and for payroll providers to design systems that can respond appropriately to known blackout periods or transition events.

Recommended action

To improve certainty and reduce unintended non-compliance risk, we recommend that the final LCR:

- clarify whether fund infrastructure events (including successor fund transfers, fund mergers, product rationalisations, administrator changes and blackout periods) are capable of constituting exceptional circumstances;
- explain how terms such as “widespread outages” are to be assessed, including whether impact across multiple employers or funds is required;
- include worked examples of widespread outages in situations where the Commissioner rules that relief is or is not appropriate;
- include additional worked examples dealing specifically with fund-level outages and transition events; and
- include indicative decision-making approaches or timeframes for the exercise of relief in these circumstances.

Clearer guidance in this area would materially improve confidence in the administration of the Payday Super regime and ensure that employers are not penalised for events beyond their reasonable control.

23. Voluntary Disclosure Statements (VDSs)

The draft LCR does not clearly explain the consequences of lodging a VDS, particularly whether employers may continue to make late payments after VDS lodgment and before assessment. Without clarity, employers may unintentionally worsen their position.

Our understanding of the compliance approach confirmed in *Practical Compliance Guideline PCG 2026/1 Payday Super - first year ATO compliance approach* (**PCG 2026/1**) is that for low-risk employers, the treatment of late payments before or after lodgement of VDSs could change between the 2026-27 and 2027-28 financial years.

Recommended action

- Clearly explain the legal and administrative consequences of VDS timing, including the impact of late payments in both the 2026-27 and 2027-28 financial years and onwards, taking into account the compliance framework contained in PCG 2026/1.

24. Out-of-cycle payments (paragraphs 52-54, example 5)

The draft guidance is focused on out-of-cycle payments determined by the Commissioner but does not provide practical examples of such payments.

Recommended action

- Provide examples of out-of-cycle payments in the LCR.

25. Business days in examples

We appreciate that the examples assume 30-day months with no public holidays for simplicity (as explained in footnote 31). However, one or two examples that incorporate a public holiday in one state or territory would be useful to help employers understand how the timing rules will operate in practice – especially where the period covered by the example includes standard seven-day periods as well as an extended period.

Incorporating examples that reflect real-world calendar complications, such as public holidays and non-business days, would also assist employers in understanding how these factors interact with QE days, contribution timing, and the accrual of interest and penalties. This is particularly important in a regime where even short delays can result in SG charge and administrative uplift consequences.

Consideration of regional public holidays such as Melbourne Cup Day or Hobart Regatta Day would also assist in understanding the application of public holidays that are not necessarily applicable across entire states or territories.

Recommended action

- Alter one or more of the existing examples, or insert one or more new example(s), to incorporate one or more public holiday(s).
- Provide a list of all applicable public holidays for Payday Super purposes in the finalised LCR.

26. Printing in grey-scale versus colour

We appreciate that the calendars in the ruling are in colour – see examples 4-9 and related explanatory “key” tables – however these do not print well when printed without colour.

We additionally note that for visually impaired individuals, such as those with colour-blindness, or where accessibility features such as screen-readers are used, colours may not necessarily add the necessary meaning required for correctly conveying the information present in the LCR.

Recommended action

We ask that this problem be fixed so that colour and grey-scale printing both produce legible print results and consistent and useful outputs are available where accessibility features are used to access the LCR.

LCR 2026/D3 Payday Super: calculation and assessment of the superannuation guarantee charge

27. Qualifying earnings day definition

Defining the QE day by reference to when a payment of QE leaves the employer’s account creates misalignment with STP and payroll reporting processes, increasing the likelihood of inadvertent non-compliance.

Most employees are paid electronically but the payment system is not instantaneous. For most employers, their employees may receive their pay on different days. We understand that in practise employees using some of the largest Approved Deposit-taking Institutions (**ADIs**) may be paid the day before customers of smaller financial institutions. Where an employer is bound by an Award or Agreement to pay on a specific day of the week, they are required to process the payment a day (or maybe two) earlier than the payroll processing date to ensure everyone receives the payment no later than the prescribed date.

The ATO's examples can result in up to four different days to consider, being the date:

- the employer actions the payroll and instigates payment;
- first employees receive payment;
- subsequent employees receive their payment for the same period; or
- date payroll is treated as processed for STP purposes.

We suggest the LCR should deem that the date should be consistent with the ATO's long held view that "the date for payment is either the date stipulated in the electronic transaction or, if no date is stipulated, the date on which the payment is intended to be made into that bank account", as this aligns with STP reporting.

Recommended action

- Include additional practical examples and explain how compliance will be approached where system misalignment occurs, and amend the date of payment to ensure clarity.

28. Administrative uplift and nominal interest – drafting clarity and practical operation (paragraphs 83–96, example 11)

Draft LCR 2026/D3 sets out how the administrative uplift component of the SG charge is intended to apply under the Payday Super regime. The administrative uplift is a significant component of the overall liability and is intended to encourage timely compliance. However, the draft LCR is difficult to understand in places due to dense drafting, undefined or ambiguously used terms, and complex mechanical steps.

In particular, the draft does not clearly explain, in a logical sequence, how an employer should determine whether an administrative uplift applies, how it is calculated, and how it interacts with other concepts such as voluntary disclosures, Commissioner-initiated assessments and reductions of liability. Readers are required to move back and forth between multiple paragraphs to piece together the intended operation.

For non-specialist readers, this creates a risk that the administrative uplift is perceived as opaque or arbitrary, rather than as a predictable consequence of specific actions or omissions.

From a practical compliance perspective, we consider that employers need to understand, upfront and in clear terms:

- when the administrative uplift is triggered;
- whether it applies automatically or is contingent on particular ATO actions;
- how the initial administrative uplift amount (before reductions) is calculated;
- how voluntary disclosure affects the amount of uplift (if at all);
- how and when reductions may apply; and

- whether past or current assessments are “in force” for the purposes of the uplift calculation.

The draft LCR does not presently walk the reader through these questions in a step-by-step manner. Instead, concepts such as “in force”, reductions expressed in percentage terms, and interactions between different assessment pathways are introduced, without sufficient explanation of how they fit together.

This complexity makes it difficult for employers and advisers to assess risk, decide whether and when to make disclosures, or explain the consequences of non-compliance to management. It also increases the likelihood of inconsistent interpretation and application across the employer population.

The administrative uplift materially increases an employer’s financial exposure. Where the mechanism is not clearly explained, there is a risk that employers may unintentionally take actions (or delay actions) that worsen their position, despite attempting to comply or self-correct.

Given the accelerated timeframes under the Payday Super regime, clarity around penalty escalation and mitigation is particularly important. Employers must be able to readily understand not only *what* their obligations are, but also *how* penalties will be applied if something goes wrong.

A lack of clarity in this area undermines confidence in the administration of the regime and may discourage early engagement or voluntary disclosure.

Further clarification would also be beneficial regarding the calculation of the nominal interest component, including confirmation of whether interest accrues on calendar days rather than business days. A clear explanation of the day-count methodology used in the LCR examples would assist employers and advisers in understanding how interest amounts are calculated in practice and in verifying assessments where timing failures occur.

It would also be helpful to clarify how nominal interest accrues in circumstances where a contribution is paid partially on time and partially late. Employers and advisers require clarity on whether interest accrues separately on each unpaid balance on a daily basis, and how subsequent payments interact with that accrual, to ensure assessments can be reliably verified and reconciled.

Recommended action

To improve clarity and operability, we recommend that the administrative uplift section be rewritten using a step-by-step explanatory format. In particular, the final LCR could clearly set out, at a high level, the purpose of the administrative uplift, and explain in sequence the following:

1. when the uplift applies;
2. how it is calculated;
3. how voluntary disclosures affect the outcome;
4. how reductions operate; and
5. how the concept of an assessment “in force” affects the analysis.

The LCR should also clarify nominal interest calculation with specific reference to calendar or business days, and consider situations where contributions are paid both on-time and late.

Additionally, the LCR should define key terms in plain language where they first appear, and use worked examples to illustrate common scenarios rather than edge cases.

Presenting the rules in this way would materially improve understanding for employers, payroll providers and advisers, and reduce the risk of unintended non-compliance and penalty exposure.

Finally, paragraph 91 should be re-worded for clarity.

29. Voluntary disclosures versus Commissioner-initiated assessments

The boundary between voluntary disclosures and Commissioner-initiated assessments is unclear, particularly in borderline scenarios involving ATO enquiries, such as where an initial ATO enquiry or nudge prompts an employer to lodge a voluntary disclosure, or where subsequent ATO activity results in amendments to an earlier disclosure. Practical examples illustrating what constitutes a Commissioner-initiated assessment, as distinct from voluntary compliance activity, would materially assist employers in managing disclosure decisions and understanding the impact on administrative uplift outcomes.

Recommended action

- Clarify boundaries with practical examples involving the use of VDS lodgment or otherwise.

30. SMSFs: lack of employer visibility

Employers contributing to SMSFs often have no way of knowing whether a contribution has been allocated in a timely manner. This makes the “able to be allocated” standard difficult to evidence.

Recommended action

- Acknowledge SMSFs as a structural exception and provide tailored safe harbours.

LCR 2026/D4 Payday Super: application and transitional provisions

31. Loss of late payment offset

From 1 July 2026, employers lose access to the late payment offset for contributions made after that date. Many employers may be unaware of this change and inadvertently trigger penalties.

Recommended action

Add prominent warnings and worked examples which consider late payments made after each of the March and June 2026 quarters at the start of the ruling.

32. July 2026 overlap period

The interaction between Q4 2025–26 payments and early Payday Super obligations creates a risk of shortfalls during July 2026.

The legislation contains a transitional rule which states that contributions paid between 1 and 28 July 2026 will firstly be applied to any outstanding June 2026 quarter liability. Any remaining amounts are then applied to QE days that occur on or after 1 July 2026.

To avoid shortfalls arising in respect of one or more QE days that occur in July, employers must in practice pay all of the June 2026 quarter obligation before they are required to make SG contributions in respect of QE days on or after 1 July. This is despite the unamended due date of 28 July 2026 for the June 2026 quarter liability.

If an employer makes contributions in respect of any July QE days in full and on time, but does not pay the June 2026 quarter liability until close to the end of July 2026 in accordance with the due date under the current regime, the operation of the transitional rule will give rise to shortfalls for one or more QE days in July. This is the case even if the employer complies with the Payday Super timeframe for each QE day as well as the 28 July 2026 due date for the June 2026 quarter.

Examples 3 and 4 illustrate the operation of the transitional rule and the outcomes described above.

While we appreciate the ATO must administer the law as it is enacted, we are of the view that employers need and deserve:

- a clear, unambiguous statement of the ATO's compliance approach in relation to the transitional rule; and
- widespread employer education about the transitional rule and the ATO's compliance approach.

We are particularly concerned that given the timing of this consultation, draft LCR 2026/D4 may not be finalised in time to be useful to employers and their advisers in relation to the transitional rule issue. Given that this issue relates to both the June 2026 quarter contributions and payments made during July 2026, it is imperative that these messages are delivered well in advance of 1 July 2026 so that employers can plan adequately. This is also discussed in Issue 2.

Our preference would be that the ATO adopts a compliance approach for July 2026 under which no compliance action will be taken so long as the employer meets the low-risk zone requirements in PCG 2026/1 in relation to any QE days that arise in July 2026 and meets the 28 July deadline in respect of the June 2026 quarter contributions.

Recommended action

- Provide clear signposting and examples showing how the overlap operates, including exploration of circumstances involving employers who currently make contributions quarterly.
- Insert a clear statement in relation to the ATO's intended compliance approach in relation to the transitional rule.
- Update examples 3 and 4 to incorporate the ATO's compliance approach.

- Consider whether the 2026-27 year compliance approach set out in PCG 2026/1 needs to be updated to incorporate the ATO's compliance approach to the transitional rule.
- Expedite the finalisation of LCR 2026/D4 (see also Issue 2).
- Undertake widespread educational campaigns for employers and intermediaries in May and June 2026.

33. Former employees and double payment risk

Where contributions for former employees are paid late, employers may be forced to pay twice due to the inability to offset or reallocate contributions.

Recommended action

Provide early warnings and guidance on refund processes.

34. Objections and review rights

The draft LCR does not explain how employers may object to assessments or seek review, leaving readers unaware of their legal rights.

Recommended action

Insert a short explanatory section on objection and review pathways.