

18 June 2026

Assistant Treasurer
Hon Daniel Mulino MP
Parliament House
Canberra ACT 2600

By email: Daniel.Mulino.MP@aph.gov.au

CC: The Treasurer
The Hon Dr Jim Chalmers MP
jim.chalmers.mp@aph.gov.au
Diane Brown, Deputy Secretary, Revenue, Small Business and Law Group, Treasury,
diane.brown@treasury.gov.au

Dear Assistant Treasurer and Treasurer,

Payday Super transitional relief submission

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. The Joint Bodies write to request urgent practical and targeted transitional amendments to the Payday Super legislation.

We support the policy intent of Payday Super, and recognise the Australian Taxation Office's (**ATO**) first-year administrative approach outlined in PCG 2026/1. However, we are concerned that the vast majority of employers, that, based on ATO statistics, without fanfare or complaint, regularly do their best to comply with their Super Guarantee (SG) obligations, also face being exposed to substantial penalties that are designed to apply to employers who do not want to comply with these obligations. The current framework relies heavily on administrative tolerance rather than legal certainty.

To put this another way, employers who are genuinely attempting to satisfy their legal obligations appear to be set up to fail. Targeted and time-limited legislative refinements are necessary to ensure that employers acting in good faith are not exposed to disproportionate outcomes during the transition.

Implementing Payday Super creates many practical implementation challenges, which will arise during the transition period, in FY2027, as all entities in the superannuation system (for example, employers, payroll system providers, financial institutions, clearing houses and superannuation funds) make essential adjustments to their systems, and processes to accommodate the Payday Super landscape.

We have focused in this letter on a small number of targeted measures that address practical gaps in the current framework and avoid duplicating existing administrative approaches.

Interaction with PCG 2026/1

We acknowledge the ATO's [Practical Compliance Guideline PCG 2026/1 - Payday Super – first-year ATO compliance approach](#) (**PCG 2026/1**), which outlines a risk-based compliance approach for the first year of Payday Super. PCG 2026/1 recognises the practical challenges associated with implementation, and provides a helpful administrative framework for the ATO's prioritisation of compliance activity.

In the [Press Release](#), issued when the *Treasury Laws Amendment (Payday Superannuation) Regulations 2026* were registered on 23 February 2026, you identified certainty needed for 'employers that, in 2026–27, they will not be the focus of ATO action if they are doing what they can to contribute each payday as system and software upgrades are rolled out'.

However, PCG 2026/1 does not alter the operation of the law or provide certainty for employers where a breach is identified. In particular, where an SG shortfall arises, the Commissioner remains bound to apply the law. While PCG 2026/1 provides administrative guidance, it does not remove the Commissioner's obligation to apply statutory penalty provisions where a contravention is identified.

Accordingly, the measures recommended in this submission are intended to complement the ATO's administrative approach by providing greater certainty for employers through the legislation during the transition period.

Key recommendations

To support the effective implementation of Payday Super, the Joint Bodies recommend a small number of targeted, time-limited measures focused on the transition period (FY 2027):

Priority measures

- providing legislative certainty for proportional and tailored penalty outcomes where employers act in good faith, including enhanced Commissioner discretion to remit penalties;
- introducing a safe harbour for delays outside the employer's control; that are not captured by the existing exceptional circumstances framework; and
- addressing transitional timing issues that may result in more than 12 months of contributions being reported in a single income year, leading to unintended excess contributions outcomes.

Supporting measures

- ensuring payment timeframes appropriately reflect end-to-end processing constraints across payroll systems and intermediaries, particularly for SMEs; and
- exploring options to improve employer visibility of contribution status, during the transition period.

These measures would preserve the policy intent of Payday Super while recognising the operational realities facing employers, particularly in the first year of implementation.

Our detailed comments and recommendations are contained in **Appendix A**.

We would welcome the opportunity to discuss these issues, including their real-world impact on small businesses and potential practical solutions. If you would like to discuss any aspect of our submission, please contact The Tax Institute's Tax Counsel, John Storey, on (03) 9603 2003.

Yours faithfully,



Peter Thorp
Chairman
Australian Bookkeepers Association



Geraldine McGaray
Group Executive Policy and International
**Chartered Accountants Australia and
New Zealand**



Elinor Kasapidis
Chief of Policy, Standards and External
Affairs
CPA Australia



Matthew Addison
Executive Director
The Institute of Certified Bookkeepers



Tony Greco
Senior Tax Advisor
Institute of Public Accountants



Peter Burgess
Chief Executive Officer
SMSF Association



Julie Abdalla
Head of Tax & Legal
The Tax Institute

APPENDIX A

We have set out below our detailed comments and recommendations for your consideration.

Transitional relief - FY 2027

The introduction of Payday Super will require significant changes to how employers manage payroll and superannuation contributions. These changes will go beyond minor adjustments. Instead, they will involve:

- updating payroll systems;
- relying on digital service providers (**DSPs**) such as payroll system providers to implement new functionality;
- changing internal processes;
- hiring additional staff (especially for larger employers); and
- training staff.

Many DSPs began upgrading their systems only after the Payday Super legislation was enacted and are still working toward full implementation. If DSPs are not ready by 1 July 2026, the compliance risk falls on the employer.

For these reasons, a reasonable, legislated transition period is essential. A targeted approach, limited to FY2027, would:

- allow time for systems to stabilise;
- give employers time to become familiar with new processes; and
- reduce the likelihood of accidental non-compliance during the early stages.

This approach would support better long-term compliance outcomes without undermining the policy intent of Payday Super.

Delays outside employer control

Feedback from our members indicates concern that employers may be exposed to liability where superannuation contributions are received after the required timeframe, even where the employer has taken reasonable steps to comply. This issue arises where delays occur in parts of the process outside the employer's control.

Delays may arise due to factors such as:

- financial institution processing timeframes and delays;
- clearing house processing timeframes;
- superannuation fund validation and member verification request processes; and
- incorrect or incomplete employee information.

In these situations, the employer may have done everything within their control to comply but may still fall outside the designated timeframe. While the ATO's administrative approach recognises that errors may be corrected, it does not provide certainty where a breach is identified under the law.

Proportionality of penalties under increased frequency

In addition to the operational and system challenges outlined above, the shift to a higher-frequency payment system also raises concerns about the proportionality of penalties for SMEs during the transition period.

The transition to Payday Super represents a significant shift from quarterly to much more frequent payment obligations. While the move to a more proportionate penalty framework is welcomed, the increased number of payment events means that even minor or short-term errors may occur more frequently, particularly during the first year of implementation.

Many smaller to medium sized employers may:

- be struggling to adapt to the shorter SG payment timeframes;
- lack detailed understanding of the interaction with other frameworks, including the *Fair Work Act 2009* (Cth) (**FWA**); and
- not be in a position to seek comprehensive advice on the operation of the revised penalty framework.

As a result, otherwise compliant employers may inadvertently breach the new requirements during the transition period. While PCG 2026/1 provides a helpful administrative framework, it is non-binding and does not alter the operation of the law. Employers may therefore still be subject to penalties even where they have taken reasonable steps to comply. Moreover, employees may be able to take direct action against employers under the National Employment Standards (**NES**) of the FWA, including a potential for claims under the wage theft provisions.

Minor errors and prompt remediation

In practice, payroll errors may arise due to data errors, system changes, or delays in receiving or validating employee information. Where such errors are identified and corrected promptly, the impact on employees is minimal. In a higher-frequency system, it is important that these types of errors are treated proportionately and do not result in cumulative or disproportionate penalties.

Calibration of the penalty framework

We support the revised penalty framework and its focus on proportionality. However, in a higher-frequency system, the cumulative effect of penalties may escalate more quickly when errors persist for a short period during the transition. It is important to ensure that penalty outcomes remain aligned with the policy intent and do not become disproportionate to the nature and duration of the underlying issue.

Recommendation

Given the scale of system and process changes required, and current indications that some DSP solutions may not be fully operational by 1 July 2026, we recommend targeted transitional relief measures for FY2027. These measures should include the following.

Transitional penalty approach and proportionality

The transition to a higher-frequency payment system increases the likelihood of minor or short-term errors, particularly during the first year of implementation.

We recommend that, during FY2027, the Commissioner be provided with clear discretion to fully or partially remit penalties where:

- the employer has taken reasonable steps to comply;
- any non-compliance is minor or short-term; and
- issues are corrected within a reasonable period after the employer became aware or should have become aware of the issue once identified.

Penalty outcomes should distinguish between inadvertent errors and deliberate non-compliance, ensuring that employers who make genuine efforts to comply are not treated in the same way as those engaging in intentional or repeated breaches.

Penalty settings should ensure that outcomes remain proportionate, particularly where errors are infrequent, unintended, and quickly rectified. In a higher-frequency system, it is important that minor errors do not result in cumulative or disproportionate penalties.

Consideration should also be given to allowing employers with a good compliance history to voluntarily disclose and correct errors without penalty, on an ongoing basis and not limited to the transition period.

Safe harbour for delays outside the employer's control

A targeted safe harbour would complement, rather than replace, the existing 'exceptional circumstances' framework by addressing more common, non-systemic delays.

We recommend that the Payday Super legislation explicitly include a safe harbour where:

- the employer makes the SG payment within the required timeframe (or an appropriate timeframe, e.g. within two business days of the QE day);
- any delay in receipt is due to factors outside the employer's reasonable control (for example, unusual variations in clearing house processing times, errors in fund or member validation processes, or incorrect employee information); and
- the employer has acted in good faith and exercised reasonable care.

This would provide greater certainty, and better reflect how the system operates in practice during the transition period.

We also note that the current 'exceptional circumstances' framework, as outlined in [Practice Statement Law Administration PS LA 2026/D3 - Payday Super: exceptional circumstances determinations](#), is limited to significant and widespread events and may not adequately capture more common, localised disruptions affecting individual employers.

Alignment with other legislative regimes during the transition period

Consideration should be given to interactions with other legislative frameworks, including the FWA, to ensure no unintended outcomes arise solely from timing differences during the transition period.

System-wide issues

While some transitional challenges are more acute for SMEs and micro-businesses, other issues, including timing and visibility of contributions, apply more broadly across all employers.

Contribution timing and transitional impacts for employees

The move to Payday Super will change the timing of when SG contributions are paid and reported. As well as the impact on employers that these new timing requirements create, there can be unintended adverse impacts on employees.

It is already acknowledged by the Treasury and the ATO that excess superannuation contributions are likely to arise for some employees in both FY2026 and FY2027. This may result where:

- contributions for the final quarter of FY2026 have been brought forward and paid in June 2026, rather than by the usual 28 July 2026 deadline; or
- the move to Payday Super results in more than 12 months of contributions being recorded in FY2027.

These outcomes arise solely from the transition from the existing superannuation system to Payday Super, rather than from any change in employer behaviour or employee entitlements.

As a result, some employees may effectively have up to 15 months of contributions recognised in either FY2026 or FY2027. We understand that some employers are being advised to bring forward all FY2026 contributions and make payments before 30 June 2026, to commence Payday Super on a 'clean slate' from 1 July 2026. Employees of organisations that do so may have up to 15 months of contributions recognised in FY2026. Employees of organisations that do not bring forward contributions face the prospect of 15 months of contributions in FY2027.

PCG 2026/1 provides no assistance or relief from excess contributions tax for employees. Without targeted treatment, these timing differences may lead to unintended outcomes, including confusion in reporting and potential issues with contribution caps and excess contributions tax.

In the Press Release mentioned above, you announced that the Government intends to:

... introduce technical amendments to ensure individuals do not exceed their concessional contributions cap in 2026/27 from their SG contributions as a result of the transition from the quarterly superannuation guarantee system to the new Payday Super system.

Over three months later, and a few weeks before the implementation of Payday Super, these technical amendments have not been legislated. Moreover, this provides no assistance to employees whose employers wish to finalise all FY2026 SG contributions before 30 June 2026, and this results in the employee breaching their FY2026 concessional contributions cap.

Recommendation

We recommend targeted relief to address these timing issues, including:

- ensuring that employees are not adversely affected where timing differences arise solely due to the transition;
- providing clear and updated ATO guidance on how such scenarios will be treated as [PS LA 2008/1](#) appears to provide necessary flexibility in relation to the Commissioner's discretion to disregard or reallocate excess contributions; and
- enabling the Commissioner to exercise discretion where outcomes are driven by timing rather than non-compliance; and
- in addition, we urge the Government to make legislative amendments in relation to the concessional contributions cap for FY2026 and FY2027 as a matter of urgency.

Employer visibility of contributions

Under Payday Super, employers will be required to make contributions more frequently and ensure they are received within a much shorter timeframe. However, employers may not have clear visibility over when a contribution:

- is received by a superannuation fund;
- has been processed; or
- has encountered an error or delay.

This creates a practical challenge for employers, particularly where:

- payments pass through multiple intermediaries; and
- timing of receipt determines whether an employer is compliant.

This is a system-wide issue that affects employers of all sizes, particularly given the reliance on multiple intermediaries. We understand the current systems do not impose any responsibility on superannuation funds to report back to an employer when a contribution is received. This means that employers wishing to self-correct as soon as possible, may not have the information to do so. This also means that the most likely method by which an employer will become aware is via an employee complaint or an ATO review which is likely to be after considerable penalties and interest have accrued. While the ATO's PCG 2026/1 recognises that delays may occur and may be corrected, it does not provide employers with real-time information to confirm whether obligations have been met. As a result, employers may only become aware of issues well after the relevant timeframe has passed, increasing the risk of unintended non-compliance.

Recommendation

We recommend that the ATO develop a system where the reporting of receipt of superannuation contributions by superannuation funds can be promptly made available to employers so they assess if they are being compliant, and make any changes accordingly. The information that employers should have prompt visibility on would include:

- confirmation that a contribution has been received and the relevant data (to allocate the contribution) has been received;
- notification of any validation issues; and
- confirmation when the contribution has been successfully allocated.

Transitional focus

At a minimum, this reporting to employers should apply during the transition period (FY2027), where:

- systems are still stabilising; and
- employers are adjusting to more frequent obligations.

Providing this visibility would:

- allow employers to identify and correct issues earlier;
- reduce reliance on retrospective administrative approaches; and
- improve overall compliance outcomes.

However, we recommend that this additional reporting be an ongoing requirement to ensure employers can self-assess their compliance.